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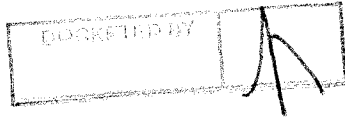
Arizona Corporation Commission

DOCKETED

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EXCEL[®]



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AZ CORP COMMISSION
DOCUMENT CONTROL

Excel Communications, Inc.

Regulatory Affairs Department

8750 N. Central Expressway

Lock Box #6

Dallas, TX 75231-6436

March 3, 2000

DOCKET NO. T-02584A-91-0016

214.863.8700

Fax 214.863.8721

e-mail: RegulatoryAffairs@excel.com

Arizona Corporation Commission

Docket Control Center

1200 West Washington Street

Phoenix, Arizona 850077-2996

RE: Excel Telecommunications, Inc.

Updated / Amended Form B

~~Docket No. U-2584-91-016~~

Dear Sir or Madam:

Enclosed is an original and ten (10) copies of Excel Telecommunications, Inc.'s amended and updated Form B Application and Petition for Certificate of Convenience and Necessity to Provide Intrastate Telecommunication Services as an Interexchange Reseller within the State of Arizona.

If there are any questions or concerns, please do not hesitate contacting the undersigned by calling (214) 863-8720.

Respectfully submitted,

EXCEL TELECOMMUNICATIONS, INC.

Jerry G. Kirby, Tariff Manager
Regulatory Affairs Department

ARIZONA CORPORATION COMMISSION
UPDATED INFORMATION FORM

(Please check the paragraphs that apply to the company's situation)

Return to: Cynthia Mercurio-Sandoval
Arizona Corporation Commission -Utilities Division
1200 W Washington
Phoenix, Arizona 85007

- ☒ 1. The full name and address of the applicant for a Certificate of Convenience and Necessity (CC&N) to resell telecommunications services within the State of Arizona and for a determination that services of the company are competitive is:

Excel Telecommunications, Inc.

8750 North Central Expressway, Suite 2000

Dallas, Texas 75231

- Yes 2. The company is currently providing service in Arizona? ☒ Yes ☐ No

- ☐ 3. The company no longer wants to do business in Arizona. A Request To Withdraw it's application will be filed by submitting an original and 10 copies of the Request To Withdraw and a Docket Cover Sheet, to the Docket Control Center, 1200 W Washington, Phoenix, AZ 85007 by **February 11, 2000** (Form attached for your convenience)

- ☒ 4. The company wishes to have its application processed, and therefore, will file updated information, including name, address, names of contact people, their addresses; telephone numbers and e-mail addresses in the Docket Control Center.

- ☒ 4a. The updated information will be provided by mailing an original Amended Application, 10 copies and a Docket Cover Sheet to: the Docket Control Center, 1200 W Washington, Phoenix, AZ 85007, by **February 11, 2000**.

- ☐ 5. The company wishes to have its application processed and all information in the pending application is accurate and current.

Jerry G. Kirby
Name of person completing form (Please print)

3-3-2000
Date

Tariff Manager
Title of person completing form

(214) 863-8720
Phone number of person completing form

FORM B

ARIZONA CORPORATION COMMISSION

[AMENDED / Updated]

Application and Petition for Certificate of Convenience and Necessity to Provide
Intrastate Telecommunication Services as an Interexchange Reseller

Mail original plus 10 copies of completed application to:

Docket Control Center
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007-2927

For Docket Control Only:

(Please Stamp Here)

If you have current applications pending in Arizona as
an Interexchange reseller, AOS provider, or as the
provider of other telecommunication services.

Type of Service: Telecommunications Reseller

Docket No.: U-2584-91-016 Date: 01/18/91

Docket No. _____

Type of Service: _____

Docket No.: _____ Date: _____

Date Docketed

A. Company and Telecommunications Service Information

(A-1) The name, address, and telephone number (including area code) of the applicant(company):

Excel Telecommunications, Inc. ("Excel")
8750 North Central Expressway, Suite 2000
Dallas, Texas 75231
(214) 863-8000

(A-2) If doing business (dba) under a name other than the applicant (company) name listed above,
specify:

Not Applicable.

(A-3) The name, address, telephone number, facsimile number and email address of the management
contact:

Ron McClenan, Director, Regulatory Affairs Department
Excel Telecommunications, Inc.
8750 North Central Expressway, Suite 2000
Dallas, Texas 75231
(214) 863-8304 - direct
(214) 863-8721 - fax
rmclenan@excel.com

(A-4) The name, address, telephone number, facsimile number and email address of the Attorney, if any, representing the applicant:

Not Applicable.

(A-5) What type of legal entity is the applicant?

☐

Sole proprietorship

☐

Partnership: _____ limited, _____ general, _____ Arizona, _____ Foreign

☐

Limited liability company

☒

Corporation: _____ "S", _____ "C", _____ non-profit, _____ Arizona, _____ **Foreign**

☐

Other, specify:

(A-6) Include "Attachment A." Attachment A must list names of all owners, partners, limited liability company managers, or corporation officers and directors (specify), and indicate percentages of ownership.

See Attachment A.

(A-7) 1. Is your company currently reselling telecommunication services in Arizona? If yes, provide the date or the approximate date that you began reselling service in Arizona.

1990.

2. If the answer to 1. is "yes", identify the types of telecommunications services you resell; whether operator services are provided or resold and whether they are provided or resold to traffic aggregators (as defined in A.A.C. Rule R14-2-1001(3), a copy of which is attached); the number of customers in Arizona for each type of service; and the total number of intrastate minutes resold in the latest 12 month period for which data is available. Note: The Commission rules require that a separate CC&N, issued under Article 10, be obtained in order to provide operator services to traffic aggregators.

Excel Telecommunications, Inc. offers 1+ Message Telecommunications Services, Calling Card and in-bound 800/8XX types services. Excel offers operator services within Arizona on a presubscribed customer basis, only. The Company does not offer operator services in the State of Arizona from pay telephones or traffic aggregator-type locations. Excel serves approximately 50,703 customers in the State of Arizona. For the period of January 1999 through the end of October 1999, Excel resold approximately 1,407,277 intrastate Arizona minutes.

3. If the answer to 1. is "no", when does your company plan to begin reselling service in Arizona?

Not Applicable.

(A-8) Include "Attachment B." Attachment B, your proposed tariff, must include proposed rates and charges for each service to be provided, state the tariff (maximum) rate as well as the price to be charged, and state other terms and conditions, including deposits, that will apply to provision of the service(s) by your company.

The Commission provides pricing flexibility by allowing competitive telecommunications service companies to price their services at levels equal to or below the tariff (maximum) rates. The prices to be charged by the company are filed with the Commission in the form of price lists. Note: Price list rate changes that result in rates that are lower than the tariff rate are effective upon concurrent notice to the Commission (See Rule R14-2-1109(B)(2)). See Rule R14-2-1110 for procedures to make price list changes that result in rates that are higher than the tariff rate.

See Attachment B.

(A-9) The geographic market to be served is:

☒ **Statewide**

☐ Other. Describe and provide a map depicting the area.

(A-10) List the states in which you currently resell services similar to those you intend to resell in Arizona.

Excel Telecommunications, Inc. offers telecommunications services from the United States Mainland, Alaska and Hawaii, and from the District of Columbia.

(A-11) Provide the name, address, and telephone number of the company's complaint contact person.

**Joel Ballew, Regulatory Manager
Excel Telecommunications, Inc., Suite 2000
8750 North Central Expressway
Dallas, Texas 75231**

(A-12) Provide a list of states in which you have sought authority to resell telecommunications services and in which the state granted the authority with major changes and conditions or did not grant your application for those services. For each state listed, provide a copy of the Commission's decision modifying or denying your application for authority to provide telecommunications services.

Not Applicable.

(A-13)	<p>Has the company been granted authority to provide or resell telecommunications services in any state where subsequently the authority was revoked? If “yes”, provide copies of the State Regulatory Commission's decision revoking its authority.</p> <p>No.</p>
(A-14)	<p>Has the company been or is the company currently involved in any formal complaint proceedings before any State or Federal Regulatory Commission? If “yes”, in which states is the company involved in proceedings and what is the substance of these complaints. Also, provide copies of Commission orders that have resolved any of these complaints.</p> <p>See Attachment A-14.</p>
(A-15)	<p>Has the applicant been involved in any civil or criminal investigations related to the delivery of telecommunications services within the last five years? If “yes”, in which states has the applicant been involved in investigations and why is the applicant being investigated?</p> <p>See Attachment A-15.</p>
(A-16)	<p>Has the applicant had judgment entered against it in any civil matter or been convicted of criminal acts related to the delivery of telecommunications services within the last five years? If yes, list the states where judgment or conviction was entered and provide a copy of the court order.</p> <p>No.</p>

B. Technical Information

- (B-1) If your company is a switchless reseller, provide the name of the company or companies whose services you resell and skip to question (B-2). If you are not a switchless reseller, complete the remainder of this section.

Include "Attachment C." Attachment C should provide the following information: A diagram of the applicant's basic call network used to complete Arizona intrastate telecommunications traffic. This diagram should show how a typical call is routed in both its originating and terminating ends (i.e. show the access network and call completion network).

Also include on the diagram the carrier(s) used for each major network component and indicate if the carrier is facilities-based or not. If the carrier is not facilities-based, indicate who owns the facilities (within the State of Arizona) that are used to originate and terminate the applicant's intrastate telecommunications traffic (i.e. provide a list of the Arizona facilities-based long distance carriers whose facilities are used to complete the applicant's intrastate traffic).

See Attachment C.

- (B-2) Will your customers be able to access alternative toll service providers or resellers via 1+ or 101XXXX access, if your system becomes non-operational?

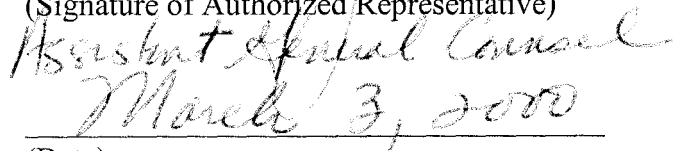
Yes.

C. Financial Information	
(C-1)	<p>Include "Attachment D", Attachment D must include a copy of your Company's balance sheet, income statement, audit report (if audited) and all related notes to these financial statements for the two most recent years your Company has been in business.</p> <p>See Attachment D.</p>
(C-2)	<p>If your Company does not have financial statements for the two most recent years, please give the date your Company began operations.</p> <p>Not Applicable.</p>
(C-3)	<p>If the balance sheets you submit do not have retained earnings accounts, please provide this account information on a separate sheet.</p> <p>Not Applicable.</p>
(C-4)	<p>If your Company is a subsidiary, please provide your Parent Company's financial statements, in addition to your Company's financial statements.</p> <p>See Attachment D.</p>
(C-5)	<p>If your Company intends to rely on the financial resources of its Parent Company, please provide a written statement from your Parent Company attesting that it will provide complete financial backing if your Company experiences a net loss or a business failure and that it will guarantee re-payment of customers; advances, prepayments or deposits held by your Company if, for some reason, your Company cannot provide service or repay the deposits.</p> <p>Not Applicable.</p>
(C-6)	<p>Will your customers be required to (or have the option to) pay advances, prepayments, or deposits for any of your products or services.</p> <p>YES <u> X </u> (If yes, provide an explanation of how and when these customer advances prepayments or deposits will be applied or reference the terms and conditions section of your Company's tariffs with this explanation. If this information is not explained in the tariff of this application, please provide it on a separate sheet.)</p> <p>NO <u> </u> (Note: If at a later date, your Company decides it wants to offer or require customer advances, prepayments or deposits, it must submit financial statements as part of the tariff amendment process.)</p> <p>Please refer to Excel's proposed Arizona C.C. Tariff No. 1, attached as Attachment A.</p>

I certify that if the applicant is an Arizona corporation, a current copy of the Articles of Incorporation is on file with the Arizona Corporation Commission and the applicant holds a Certificate of Good Standing from the Commission. If the company is a foreign corporation or partnership, I certify that the company has authority to transact business in Arizona. I certify that all appropriate city, county and/or State agency approvals have been obtained. Upon signing of this application, I attest that I have read the Commission's rules and regulations relating to the regulations of telecommunications services (A.A.C. Title 14, Chapter 2, Article 11) and that the company will abide by Arizona State Law including the Arizona Corporation Commission Rules and Regulations. I agree that the Commission's rules apply in the event there is a conflict between those rules and the company's tariff, unless otherwise ordered by the Commission. I certify that to the best of my knowledge the information provided in this Application and Petition is true and correct.



(Signature of Authorized Representative)



(Date)

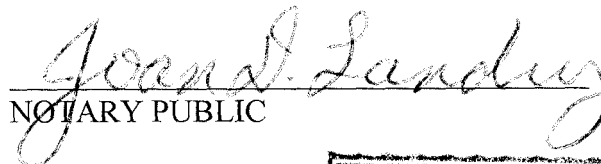
Robbin M. Johnson

(Print Name of Authorized Representative)

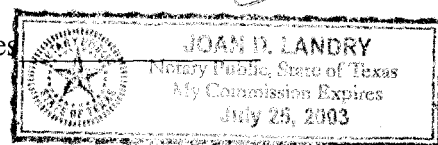
Assistant General Counsel

(Title)

SUBSCRIBED AND SWORN to before me this 3rd day of March, 19 2000


NOTARY PUBLIC

My Commission Expires





ARIZONA CORPORATION COMMISSION

DOCKET NUMBER U-2584-91-016

ATTACHMENT A

EXCEL TELECOMMUNICATIONS, INC.'S

OFFICERS

Excel Telecommunications, Inc.
Officers and Directors

Officers:

<u>Officer</u>	<u>Title</u>
Christina A. Gold	Chief Executive Officer
Selby A. Shaver	President and Chief Operating Officer
Christopher P. Kelly	VP, General Counsel and Secretary
Jacques Deforges	Vice President and Treasurer
J. Christopher Dance	President, Local Services Division
Cynthia Worthman	EVP and Chief Financial Officer
Stephen Ingram	EVP and Chief Information Officer
Malcolm Aylett	EVP and Chief Operating Officer, International
Kevin Pennington	EVP, Administration
Nicholas A. Merrick	EVP, Business Development
Kenneth Hilton	EVP, Consumer Marketing
Robert Keil	EVP, Operations
Steve Richards	EVP, Product Management and Direct Marketing
André Bourbonnais	Assistant Secretary
François Laurin	Vice President
François Gauvin	Assistant Secretary

Directors:

Christina A. Gold
Selby A. Shaver
Cynthia Worthman



-
- (A-14) Has the company been or is the company currently involved in any formal complaint proceedings before any State or Federal Regulatory Commission? If "yes," in which states is the company involved in proceedings and what is the substance of these complaints? Also, provide copies of Commission orders that have resolved any of these complaints.**

As in any business, customer issues of various types are bound to arise in the normal course of business. An important measure of customer satisfaction in such situations is the Company's responsiveness in promptly resolving such complaints or issues. Excel has an excellent record in responding to and resolving any customer concerns, including individual formal and informal complaints and customer inquiries, and Excel continues to strive to ensure the highest level of customer satisfaction. Depending upon each Commission's own practices, individual customer complaints may be addressed on strictly an informal basis or may be subject to more formal complaint resolution procedures. If your office requires additional information concerning any formal complaint proceedings involving a single complainant, the Company will provide this information upon request.

Although Excel has experienced tremendous growth throughout its history in terms of customers and minutes of use, Excel's complaint ratio is among the best in the nation and the ratio has remained consistently low in terms of Excel's number of customers, revenues and minutes of use as measured by the FCC Common Carrier Scorecard. In addition, Excel's practices to prevent unauthorized switches of customer service was found by the Texas Public Utility Commission as an industry standard to promote the public interest.

The list that follows summarizes the formal complaint proceedings in which Excel is or has been a party to before any State or Federal Regulatory Commission.

The following formal proceedings have been resolved:

Alabama Public Utilities Commission, P.O. Box 991, Montgomery, AL 36101-0991. Excel submitted its paging revenue and long distance revenue in one report with one fee. The Alabama Public Utilities Commission wanted such revenue reports filed separately with distinct fees. Excel has paid the appropriate fee, and the matter was dismissed. No fine or penalty was requested in connection with this proceeding.

Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554; File No. ENF-95-15. A Notice of Apparent Liability ("Notice") was issued on August 18, 1995 against Excel Telecommunications, Inc. The Notice involved two alleged unauthorized PIC changes by Excel in 1994. AT&T, MCI and LCI (now Qwest) also received Notices of Apparent Liability during this same period of time, as well as several smaller carriers. These carriers subsequently entered into consent decrees with the FCC and agreed to make voluntary contributions to the U.S. Treasury. Excel was assessed a forfeiture in the amount of \$80,000. The Docket was closed on June 21, 1996.

Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0870; Docket No. 97-1490-TI. The proceeding was initially opened in December 1997, and the formal show cause order concerning unauthorized PIC changes was issued on July 22, 1998. The matter was settled before the Commission on February 22, 1999. The proceeding followed a show cause order that was initially opened against twelve telecommunications carriers, including AT&T, MCI, Sprint, LCI, and UniDial, among other long distance carriers, in addition to Excel Telecommunications, Inc. As part of the settlement, Excel agreed to review and enhance its customer safeguards and to remit a voluntary contribution in the amount of \$68,000 to the General Revenue Fund, with no admission of liability or wrongdoing.¹

¹ Other telecommunications carriers against whom the Florida show cause proceeding was opened also made voluntary contributions as part of their settlement agreements with the Florida Commission. For example, AT&T agreed to expend a total of \$500,000 in connection with its settlement agreement. Sprint agreed to make a voluntary contribution of \$150,000. Unidial agreed to make a voluntary contribution of \$125,000.

Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0870; Docket No. 950468-TI. The proceeding was instituted on April 20, 1995 with respect to Excel Telecommunications. The petition involved alleged unauthorized PIC changes by Excel. Excel and the Commission entered into a Stipulation and Settlement Agreement in which Excel voluntarily agreed to adopt certain procedures and to increase its staffing to prevent the unauthorized PIC changes of customers. Excel also agreed to remit a voluntary contribution of \$10,000 to the General Revenue Fund, with no admission of liability or wrongdoing. The Docket was closed on March 21, 1996.

Nebraska Public Service Commission, 300 The Atrium, 1200 North Street, Lincoln, Nebraska 68509. A complaint was filed by two independent local exchange carriers in connection with equal access and intraLATA presubscription balloting. The complaint concerned Excel's provisioning and billing of customers. The parties have reached a voluntary settlement of the claim without admission of wrongdoing.

Texas Public Utility Commission, 1701 N. Congress Avenue, Austin, Texas 78711; Docket No. 20933. The proceeding was instituted on April 22, 1999 with respect to Excel Telecommunications. The notice involved alleged unauthorized PIC changes by Excel. Excel and the Commission entered into a Stipulation and Settlement Agreement in which Excel voluntarily agreed to review and enhance its customer safeguards. Excel also consented to a voluntary contribution of \$35,000 to the treasury of the State of Texas, with no admission of liability or wrongdoing. The docket was closed on August 20, 1999.

Marsha

From: Lorraine Engle

11-29-95 4:14pm p. 2 of 4

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation of
marketing practices of EXCEL
TELECOMMUNICATIONS, INC.

) DOCKET NO. 950468-TI
) ORDER NO. PSC-95-1470-FOF-TI
) ISSUED: November 28, 1995

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER TO SHOW CAUSE

BY THE COMMISSION:

On April 20, 1995, the Office of Public Counsel (OPC), filed a petition to revoke the interexchange telecommunications certificate of Excel Telecommunications, Inc. (Excel), or, in the alternative, to fine Excel, for an alleged violation of Rule 25-4.118, Florida Administrative Code. Under Rule 25-4.118, Florida Administrative Code, a customer's primary interexchange carrier (PIC) may not be changed unless certain procedures are followed.

In addition to OPC's petition, between January 1, 1995, and September 30, 1995, this Commission received 35 complaints against Excel from customers alleging unauthorized PIC changes. We have reviewed 19 of these complaints, and it appears that a number of them merit further examination. The remaining 16 complaints were still open as of September 30, 1995, pending a response by Excel.

We are also informed that, on August 18, 1995, the Federal Communications Commission (FCC) issued a Notice of Apparent Liability for Forfeiture, by which it alleged that Excel caused two customers' PICs to be changed without their authorization, in violation of FCC rules and orders, and found that Excel was apparently liable for a forfeiture in the amount of \$80,000.

Accordingly, pursuant to Section 364.285, Florida Statutes, we find it appropriate to require Excel to show cause, in writing, within twenty days of the date of this Order, why it should not be fined \$1,000 for each alleged violation of Rule 25-4.118, Florida Administrative Code, for a total of \$35,000. Excel's response must contain specific allegations of fact and law. If it fails to file

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

EXCEL
TELECOMMUNICATIONS, INC. File No. ENF-95-15
NAL/Acct. No. 516EF0005

Apparent Liability for Forfeiture

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: August 18, 1995; Released: August 18, 1995

By the Chief, Common Carrier Bureau:

I. INTRODUCTION

1. By this Notice of Apparent Liability for Forfeiture ("NAL"), we initiate enforcement action against Excel Telecommunications, Inc. ("Excel").¹ For the reasons discussed below, we find that Excel willfully or repeatedly violated Commission rules and orders² by changing the primary interexchange carrier ("PIC") designated by Mr. Bruce Adelman ("Adelman") of Los Angeles, California and Mrs. Robert J. Blake ("Blake") of Altadena, California, without Adelman's or Blake's authorization. Based upon our review of the facts and circumstances surrounding the violations, we find that Excel is apparently liable for a forfeiture in the amount of eighty thousand dollars (\$80,000).

II. BACKGROUND

2. In its *Allocation Order* and subsequent *Reconsideration Order* and *Waiver Order*,³ the Commission set forth rules and procedures for implementing equal access⁴ and customer presubscription⁵ to an interexchange carrier

("IXC").⁶ The Commission's original allocation plan required IXCs to have on file a letter of agency ("LOA") signed by the customer before submitting PIC change orders to the local exchange carrier ("LEC") on behalf of the customer.⁷ After considering claims by certain IXCs that this requirement would stifle competition because consumers would not be inclined to execute the LOAs even though they agreed to change their PIC, the Commission later modified the requirement to allow IXCs to initiate PIC changes if they had "instituted steps to obtain signed LOAs."⁸ In 1992, the Commission again revised its rules because it continued to receive complaints about unauthorized PIC changes.⁹ Specifically, while the Commission recognized the benefits of permitting a telephone-based industry to rely on telemarketing to solicit new business, it required IXCs to institute one of the following four confirmation procedures before submitting PIC change orders generated by telemarketing: (1) obtain the consumer's written authorization; (2) obtain the consumer's electronic authorization by use of an 800 number; (3) have the consumer's oral authorization verified by an independent third party; or (4) send an information package, including a prepaid, returnable postcard, within three days of the consumer's request for a PIC change, and wait 14 days before submitting the consumer's order to the LEC, so that the consumer has sufficient time to return the postcard denying, cancelling or confirming the change order.¹⁰ Hence, the Commission's rules and orders require that IXCs either obtain a signed LOA or, in the case of telemarketing solicitations, complete one of the four telemarketing verification procedures before submitting PIC change requests to LECs on behalf of consumers.

3. Because of its continued concern over unauthorized PIC changes, the Commission recently prescribed the general form and content of the LOA used to authorize a change in a customer's primary long distance carrier.¹¹ The Commission's recent rules prohibit the potentially deceptive or confusing practice of combining the LOA with promotional materials in the same document.¹² The rules also prescribe the minimum information required to be included in the LOA and require that the LOA be written

¹ Excel Telecommunications, Inc. is located at 9101 LBJ Freeway, Suite 800, Dallas, Texas 75243. Kenny Troutt is the Chairman, President and Chief Executive Officer.

² 47 C.F.R. § 64.1100; Investigation of Access and Divestiture Related Tariffs, CC Docket 83-1145, Phase 1, 101 FCC 2d 911 (1985) (*Allocation Order*); *recon. denied*, 102 FCC 2d 503 (1985) (*Reconsideration Order*); Investigation of Access and Divestiture Related Tariffs, CC Docket 83-1145, Phase 1, 101 FCC 2d 935 (1985) (*Waiver Order*).

³ See *supra* proceedings cited at note 2.

⁴ Equal access for interexchange carriers ("IXCs") is that which is equal in type, quality and price to the access to local exchange facilities provided to AT&T and its affiliates. *United States v. American Tel. & Tel.*, 552 F. Supp. 131, 227 (D.D.C. 1982), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983) (*Modification of Final Judgment* or "MFJ"). "Equal access allows end users to access facilities of a designated [IXC] by dialing '1' only." *Allocation Order*, 101 FCC 2d at 911.

⁵ Presubscription is the process by which each customer selects one primary interexchange carrier ("PIC"), from among several available carriers, for the customer's phone line(s). *Allocation Order*, 101 FCC 2d at 911, 928. Thus, when a customer dials

"1", only the customer accesses the primary IXC's services. An end user can also access other IXCs by dialing a five-digit access code (10XXX). *Id.* at 911.

⁶ Pursuant to the MFJ, the Bell Operating Companies (BOCs) were ordered to provide, where technically feasible, equal access to their customers by September 1986. *Id.*

An LOA is a document, signed by the customer, which states that the customer has selected a particular carrier as that customer's primary long distance carrier. *Allocation Order*, 101 FCC 2d at 929.

⁸ *Waiver Order*, 101 FCC 2d at 942.

⁹ Policies and Rules Concerning Changing Long Distance Carriers, 7 FCC Rcd 1038-39 (1992) (*PIC Change Order*).

¹⁰ See 47 C.F.R. § 64.1100; *PIC Change Order*, 7 FCC Rcd at 1045.

¹¹ Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, FCC 95-225 (June 14, 1995) (*LOA Order*).

¹² See *LOA Order*, FCC 95-225 at para. 27. Checks that serve as an LOA are exempted from the "separate or severable" requirement so long as the check contains certain information

in clear and unambiguous language.¹³ The rules prohibit all "negative option" LOAs¹⁴ and require that LOAs and any accompanying promotional materials contain complete translations if they employ more than one language.¹⁵

4. On March 13, 1995 and November 7, 1994, the Commission received written complaints from Adelman and Blake, respectively, alleging that Excel had converted Adelman's and Blake's prescribed long distance service provider from AT&T Corporation ("AT&T") to Excel without either Adelman's or Blake's authorization.¹⁶ Both Adelman and Blake state that the "Residential Service Request Forms" ("authorization form") forwarded to them by Excel as verification of their requests to have their long distance service switched to Excel, bear forged signatures and fabricated social security numbers.¹⁷

5. Subsequently, the Common Carrier Bureau's Enforcement Division (the "Division") sent a letter to Excel directing it to provide specific information regarding the allegations listed in both the Adelman and Blake complaints.¹⁸ In response to the complaints, Excel explains that its marketing is based exclusively on obtaining a written LOA from a prospective customer, typically as the result of an in-person, one-on-one presentation by one of its independent marketing agents. Excel states that its practice is to review LOAs obtained from prospective customers to ensure completeness and that it occasionally checks social security numbers. Excel states that it is unable to ascertain whether these review procedures were implemented with regard to the Adelman and Blake LOAs or whether the signatures are authentic.¹⁹ Excel concedes that it is possible that Adelman's and Blake's signatures and social security numbers may have been forged by the independent marketing representatives who submitted the forms at issue.²⁰

III. DISCUSSION

6. We have carefully evaluated the information submitted in connection with Adelman's and Blake's informal complaints and conclude that Excel is apparently liable for forfeiture for willful or repeated violation of the Commission's rules and PIC change requirements. We find Excel's apparent actions particularly egregious. It appears that on or about August 22, 1994 and August 30, 1994, Excel submitted two PIC change requests to Pacific Bell, based on apparently forged LOAs, which resulted in the conversion of both Adelman's and Blake's telephone service from AT&T to Excel. The statements and information provided

by Adelman, Blake, and Excel leave virtually no doubt that the LOAs were forged, the social security numbers falsified, and consequently, that Excel lacked the requisite authorization to request a PIC change to either Adelman's or Blake's long distance service. With respect to the Adelman complaint, there is no similarity between the signature on Adelman's complaint and his purported signature on the LOA form that Excel used as the basis for the PIC change submitted to Pacific Bell. With respect to the Blake complaint, information obtained from the complainant indicates that neither Mr. or Mrs. Blake ever met with an Excel representative nor were they ever contacted by telephone regarding a switch in their long distance service. Further, the complainant confirmed that Mr. Blake's name is misspelled, his signature is forged, and that the purported social security number appearing on the form is not his. Under these circumstances, we conclude that Excel's apparent actions were in willful or repeated violation of the Commission's PIC change rules and orders and that a substantial forfeiture penalty is appropriate.

7. Section 503(b)(2)(B) of the Communications Act authorizes the Commission to assess a forfeiture of up to one hundred thousand dollars (\$100,000) for each violation or each day of a continuing violation up to a statutory maximum of one million dollars (\$1,000,000) for a single act or failure to act.²¹ In exercising such authority, the Commission is required to take into account "the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."²² For purposes of determining an appropriate forfeiture penalty in this case, we regard the conversion of Adelman's and Blake's telephone lines as two violations. After weighing the circumstances surrounding the violation, we find that Excel is apparently liable for a forfeiture of forty thousand dollars (\$40,000) for each of the unauthorized conversions, resulting in a total forfeiture of eighty thousand dollars (\$80,000). Excel will have the opportunity to submit evidence and arguments in response to this NAL to show that no forfeiture should be imposed or that some lesser amount should be assessed.²³ In this regard, we note that the Commission has previously held that a licensee's gross revenues are the best indicator of its ability to pay a forfeiture and that use of gross revenues to determine a party's ability to pay is reasonable, appropriate, and a useful yardstick in helping to analyze a company's financial condition for "forfeiture purposes."²⁴ We

clearly indicating that endorsement of the check authorizes a PIC change and otherwise complies with the Commission's LOA requirements. *Id.* at para. 25.

¹³ See *id.* at para. 10.

¹⁴ See *id.* at para. 11. "Negative option" LOAs require consumers to take some action to avoid having their long distance telephone service changed.

¹⁵ See *id.* at para. 40.

¹⁶ Bruce Adelman, Informal Complaint No. 95-10834; Mrs. Robert J. Blake, Informal Complaint No. 95-02575.

¹⁷ Bruce Adelman, Informal Complaint No. 95-10834; Mrs. Robert J. Blake, Informal Complaint No. 95-02575.

¹⁸ See, e.g., Official Notice of Informal Complaint, Complaint No. 95-10834.

¹⁹ See, e.g., Excel Response to Informal Complaint No. 95-10834 at 7 (Excel Adelman Response); Excel Response to

Informal Complaint No. 95-02575 at 7 (Excel Blake Response).

²⁰ See, e.g., Excel Adelman Response at 5; Excel Blake Response at 5.

²¹ 47 U.S.C. § 503(b)(2)(B).

²² *Id.* § 503(b)(2)(D).

²³ See 47 U.S.C. § 503(b)(4)(C); 47 C.F.R. § 1.80(f)(3).

²⁴ PJB Communications of Virginia, 7 FCC Rcd 2088, 2089 (1992) (finding that forfeitures of \$5,000 and \$3,000 assessed against two jointly owned and operated paging companies were not excessive because the total forfeiture amount (\$8,000) represented approximately 2.02 percent of the companies' combined gross revenues of \$395,469). See also David L. Hollingsworth d/b/a Worland Services, 7 FCC Rcd 6640 (Com. Car. Bur. 1992) (\$6,000 forfeiture representing approximately 1.21 percent of licensee's 1991 gross revenues and approximately 1.34 percent of projected 1992 gross revenues not found to be excessive); Afton Communications Corp., 7 FCC Rcd 6741 (Com. Car. Bur. 1992)

will give full consideration to any financial information provided by Excel before assessing a final forfeiture amount.

IV. CONCLUSIONS AND ORDERING CLAUSES

8. We have carefully reviewed the information submitted in connection with Adelman's and Blake's informal complaints and conclude that on or about August 22, 1994 and August 30, 1994, Excel apparently converted or caused a local exchange carrier to convert Adelman's and Blake's telephone lines without either Adelman's or Blake's authorization through the use of apparently forged LOAs. We further conclude that Excel thereby willfully or repeatedly violated Commission rules governing primary interexchange carrier conversions, and that its conduct warrants a forfeiture in the amount of eighty thousand dollars (\$80,000).

9. Accordingly, IT IS ORDERED, pursuant to Section 503(b) of Communications Act of 1934, as amended, 47 U.S.C. § 503(b), and Section 1.80 of the Commission's rules, 47 C.F.R. § 1.80, that Excel Telecommunications, Inc. IS HEREBY NOTIFIED of an Apparent Liability for Forfeiture in the amount of eighty thousand dollars (\$80,000) for its willful or repeated violation of the Commission's PIC change rules and orders, 47 C.F.R. § 64.1100; *PIC Change Order*, 7 FCC Rcd 1038 (1992); *Allocation Order*, 101 FCC 2d 911 (1985); *Waiver Order*, 101 FCC 2d 935 (1985).

10. IT IS FURTHER ORDERED, pursuant to Section 1.80 of the Commission's rules, 47 C.F.R. § 1.80, that within thirty days of the release of this Notice, Excel Telecommunications, Inc. SHALL PAY the full amount of the proposed forfeiture²⁵ OR SHALL FILE a response showing why the proposed forfeiture should not be imposed or should be reduced.

11. IT IS FURTHER ORDERED that a copy of this Notice of Apparent Liability for Forfeiture SHALL BE SENT by certified mail to Kenny Troutt, Chairman, President and Chief Executive Officer of Excel Telecommunications, Inc., 9101 LBJ Freeway, Suite 800, Dallas, Texas 75243.

FEDERAL COMMUNICATIONS COMMISSION

Kathleen M.H. Wallman
Chief, Common Carrier Bureau

(\$6,000 forfeiture representing approximately 3.91 percent of 1990 gross revenues and 2.75 percent of projected 1992 gross revenues not found to be excessive).

²⁵ The forfeiture amount should be paid by check or money order drawn to the order of the Federal Communications Com-

mission. Reference should be made on Excel Telecommunications, Inc.'s check or money order to "NAL/Acct. No. 516EF0005." Such remittances must be mailed to Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box. 73482, Chicago, Illinois 60673-7482.

ORDER NO. PSC-95-1470-FOF-TI
DOCKET NO. 950468-TI
PAGE 2

a timely response, such failure shall constitute an admission of the facts alleged herein and a waiver of any right to a hearing.

It is, therefore,

ORDERED by the Florida Public Service Commission that Excel Telecommunications, Inc. shall show cause, in writing, why it should not be fined \$1,000 for each alleged violation of Rule 25-4.118, Florida Administrative Code, for a total of \$35,000. It is further

ORDERED that Excel Telecommunications, Inc.'s response must contain specific allegations of fact and law. It is further

ORDERED that Excel Telecommunications, Inc.'s response must be received by the Director of the Division of Records and Reporting within twenty (20) days of the date of this Order. It is further

ORDERED that, if Excel Telecommunications, Inc. fails to file a timely response, such failure shall constitute an admission of the facts alleged herein and a waiver of any right to a hearing.

By ORDER of the Florida Public Service Commission, this 28th day of November, 1995.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: /s/ Kay Flynn
Chief, Bureau of Records

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-904-413-6770.

(S E A L)

RJP

Chairman Susan F. Clark and Commissioner J. Terry Deason dissented.

Co: Marsha

From: Lorraine Engle

11-29-95 4:14pm p. 4 of 4

ORDER NO. PSC-95-1470-FOF-TI
DOCKET NO. 950468-TI
PAGE 3

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 18, 1995.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.

In re: Investigation of)
marketing practices of Excel)
Telecommunications, Inc.)

Filed: 1/17/96

On November 28, 1995, the Commission issued Order No. PSC-95-

1470-FOF-TI ("Show Cause Order") requiring Excel to show cause why it should not be fined for alleged violations of Rule 25-4.118, Florida Administrative Code. With the OPC's petition as background, the Show Cause Order was based on the Commission having received 35 complaints against Excel from January 1, 1995, and September 30, 1995, and its conclusion that a number of these complaints merited further investigation.

Excel responded that it has engaged in no conduct that can reasonably be viewed as a knowing or wilful violation of Rule 25-4.118, and, moreover, that rather than having "refused to comply" with the rule, Excel has achieved an outstanding record of regulatory compliance. For example, Excel's customer growth over the past year has been so great that the 35 complaints received by the Commission amounts to approximately one complaint for every 4,000 LOAs in Florida processed by Excel. In other words, Excel's complaint rate is approximately one-fortieth of one percent.

Although Excel believes that its overall record of regulatory compliance is outstanding, Excel is not satisfied that its performance in tracking and analyzing complaints and in responding to agency inquiries has met its own high internal standards. Excel's own concerns in this area prompted the managerial improvements previously noted.

In light of the above, Excel believes that the interests of the public, the Commission, and Excel itself can best be served at this time through settlement. While it neither admits nor denies that it violated the prohibition against unauthorized carrier


changes, Excel hereby offers to make a payment of \$10,000 to settle this proceeding. Payment would be made within 30 days of the issuance date of the final order approving this offer.

Excel believes that upon review, the Commission will find that accepting this offer is appropriate and in the public interest. The amount of the payment is significant, reflecting how seriously the Commission considers unauthorized carrier changes. At the same time, the amount of the payment does reflect the numerous mitigating factors in this case, including Excel's statistically low level of complaints, its own recognition of the management problems in tracking consumer complaints, its efforts to create optimal internal procedures for responding to consumer complaints, and its aggressive and timely response to independent representatives who have submitted forged letters of authorization.

This offer does not constitute an admission that Excel has refused to comply with or has willfully violated any lawful rule or order of the Commission. Moreover, acceptance of Excel's offer of settlement will not constitute a finding by this Commission of any violation by Excel of Rule 25-4.118, Florida Administrative Code.

Therefore, Excel respectfully requests that the Commission approve this offer of settlement on the basis stated herein, and that the Commission issue its final order effecting such acceptance and providing that upon receipt of this payment that this docket be closed.

Respectfully submitted this 17th day of January, 1996.


Patrick K. Wiggins
Wiggins & Villacorta, P.A.
501 East Tennessee Street
Suite B
Post Office Drawer 1657
Tallahassee, Florida 32302
(904) 222-1534

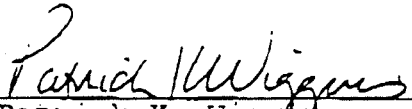
Attorneys for Petitioner

Certificate of Service

I, Patrick K. Wiggins, hereby certify that a copy of the foregoing pleading was furnished by United States first class mail, postage prepaid, this 17th day of January 1995 to the following parties:

Jack Shreve, Public Counsel
Charles J. Beck, Deputy Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

Robert Pierson
Division of Legal Services
Florida Public Service Comm.
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399


Patrick K. Wiggins

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation of
marketing practices of Excel
Telecommunications, Inc.

) DOCKET NO. 950468-TI
) ORDER NO. PSC-96-0401-AS-TI
) ISSUED: March 21, 1996
)

The following Commissioners participated in the disposition of this matter:

- SUSAN F. CLARK, Chairman
- J. TERRY DEASON
- JOE GARCIA
- JULIA L. JOHNSON
- DIANE K. KIESLING

ORDER ACCEPTING OFFER OF SETTLEMENT

BY THE COMMISSION:

On April 20, 1995, the Office of Public Counsel (OPC), filed a petition to revoke the interexchange telecommunications certificate of Excel Telecommunications, Inc. (Excel), or, in the alternative, to fine Excel, for an alleged violation of Rule 25-4.118, *Florida Administrative Code*. Under Rule 25-4.118, *Florida Administrative Code*, a customer's primary interexchange carrier (PIC) may not be changed unless certain procedures are followed.

In addition to OPC's petition, between January 1, 1995, and September 30, 1995, this Commission received 35 complaints against Excel from customers alleging unauthorized PIC changes. Accordingly, by Order No. PSC-95-1470-FOF-TI, issued November 28, 1995, we required Excel to show cause why it should not be fined \$1,000 for each alleged violation of Rule 25-4.118, *Florida Administrative Code*, for a total of \$35,000.

On December 18, 1995, Excel filed a response to Order No. PSC-95-1470-FOF-TI. In its response, Excel denied that it has refused to comply with or willfully violated Rule 25-4.118, *Florida Administrative Code*. Excel, therefore, questioned this Commission's authority to impose a fine against it.

Norwithstanding the above, on January 17, 1996, Excel filed an offer of settlement. In its offer of settlement, Excel noted that the number of complaints during the relevant time period amounted to approximately one per 4,000 letters of authorization (LOAs) processed by Excel in Florida. Excel also stated that it "is not satisfied that its performance in tracking and analyzing complaints and in responding to agency inquiries has met its own high internal standards. Accordingly, it has taken steps, including the addition of staff and comprehensive protocols, in an attempt to curtail the submission of invalid LOAs.

Excel also stated that it "believes that the interests of the public, the Commission, and Excel itself can best be served at this time through settlement." Accordingly, it has offered to make a voluntary contribution of \$10,000 to the General Revenue Fund, without admitting that it violated Rule 25-4.118, *Florida Administrative Code*, or any other rule or order of the Commission.

Upon consideration, we agree that it is probably in the best interests of all to settle this matter, especially since it appears that Excel has taken strong steps to curtail invalid LOAs. We, therefore, accept Excel's offer of settlement.

It is, therefore,

ORDERED by the Florida Public Service Commission that Excel Telecommunications, Inc.'s offer of settlement is accepted, as set forth in the body of this order. It is further

ORDERED that Excel Telecommunications, Inc. shall remit its voluntary contribution of \$10,000 in accordance with its offer of settlement. Its voluntary contribution shall be forwarded to the Office of the Comptroller for deposit in the General Revenue Fund of the State of Florida, pursuant to Section 364.285(1), *Florida Statutes*. It is further

ORDERED that, upon verification of Excel Telecommunications, Inc.'s voluntary contribution by the staff of this Commission, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 21st day of March, 1996.

/s/ Blanca S. Bayó
BLANCA S. BAYO, Director

Division of Records and Reporting

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-904-413-6770.

(S E A L)

RJP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), *Florida Statutes*, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, *Florida Statutes*, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, *Florida Administrative Code*; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

DA 96-1009

In the Matter of)	
)	File No. ENF-95-15
EXCEL TELECOMMUNICATIONS, INC.)	
)	NAL/Acct. No. 516EF0005
Apparent Liability for Forfeiture)	

NOTICE OF FORFEITURE

Adopted: June 20, 1996; Released: June 21, 1996

By the Chief, Common Carrier Bureau:

I. INTRODUCTION

1. On August 18, 1995, we released a Notice of Apparent Liability ("NAL")¹ in the above-captioned proceeding. We concluded therein that Excel Telecommunications, Inc. ("Excel") had apparently changed the primary interexchange carriers ("PICs") designated by Mr. Bruce Adelman ("Adelman") of Los Angeles, California and Mrs. Robert J. Blake ("Blake") of Altadena, California, without Adelman's or Blake's authorization in violation of the Commission's rules and orders.² We found Excel apparently liable for forfeiture in the amount of eighty thousand dollars (\$80,000) for its willful or repeated violations of the Commission's rules and PIC change requirements, and allowed 30 days from the release date of the NAL for Excel to respond, either by paying the forfeiture amount or explaining why the forfeiture should be reduced or not imposed at all. On September 6, 1995, Excel filed a Petition for Reconsideration ("Petition") asking that we reduce the forfeiture amount.³ For the reasons discussed below, we deny Excel's Petition and assess a forfeiture of \$80,000 for the violations.

¹ Excel Telecommunications, Inc., Notice of Apparent Liability for Forfeiture, 10 FCC Rcd 10,880 (Com. Car. Bur. 1995) (Excel NAL).

² 47 C.F.R. § 64.1100; Investigation of Access and Divestiture Related Tariffs, CC Docket 83-1145, Phase 1, 101 FCC 2d 911 (1985) (Allocation Order); recon. denied, 102 FCC 2d 503 (1985) (Reconsideration Order); Investigation of Access and Divestiture Related Tariffs, CC Docket 83-1145, Phase 1, 101 FCC 2d 935 (1985) (Waiver Order). The unauthorized conversion of a customer's PIC is known in the industry as "slamming".

³ Excel captioned the document filed on September 6, 1995 as a Petition for Reconsideration. Within the document, however, Excel refers to the document as a response. Petition at 2. For this reason, and also because there is no final Commission action for reconsideration under 47 C.F.R. § 1.106, the filing is being treated as Excel's response to the NAL.

II. BACKGROUND

2. The facts and circumstances leading to the issuance of our NAL are recited therein and need not be reiterated at length. This proceeding was initiated by the Adelman and Blake complaints, which alleged that Excel had converted their long distance service provider from AT&T Corporation ("AT&T") to Excel without their authorization. Adelman and Blake stated in their complaints that the authorization forms ("letters of agency" or "LOAs") used to switch their long distance service to Excel contained forged signatures and fabricated social security numbers. Subsequently, the Enforcement Division (the "Division") of the Common Carrier Bureau (the "Bureau") sent letters to Excel requesting that Excel provide specific information regarding the allegations listed in the Adelman and Blake complaints.⁴ In its response to the Division, Excel stated that it was possible that Adelman's and Blake's signatures and social security numbers had been forged by the independent marketing representatives who submitted the forms at issue.⁵ Based upon the information provided in the Adelman and Blake complaints, Excel's response to the Division, and the Bureau's investigation of the matter, the Bureau issued the NAL against Excel.

III. DISCUSSION

3. In its response to the NAL, Excel does not contest the Bureau's finding of apparent liability for willful or repeated violations of the Commission's rules governing primary interexchange carrier conversions. Rather, Excel requests that the Commission reduce the amount of the assessed forfeiture for two reasons: (1) Excel has a history of compliance and has never before been assessed a forfeiture; and (2) the possibility exists that the authorization forms were not forged by Excel representatives.

A. History of Compliance

4. Citing prior orders issued by the Commission, Excel states that the Commission has reduced proposed forfeitures on the basis of history of overall compliance.⁶ Excel contends that, because this is the first NAL it has received from the Commission, the amount of the forfeiture should be reduced.⁷ Initially, we note that the Commission has authority to assess a forfeiture of up to one hundred thousand dollars (\$100,000) for each violation or each day of a continuing violation up to a statutory maximum of one million dollars (\$1,000,000) for a single act or failure to act.⁸ When determining the amount of forfeiture to be imposed, we are required

⁴ See, e.g., Official Notice of Informal Complaint, Informal Complaint No. 95-10834.

⁵ Excel Response to Informal Complaint No. 95-10834 at 7; Excel Response to Informal Complaint No. 95-02575 at 7.

⁶ Excel Petition at 3, (citing TNI Associates, 10 FCC Rcd 8817 (Wireless Tele. Bur. 1995); Scott Home Center, 8 FCC Rcd 6670 (Field Operations Bur. 1993); The CB Shop, 8 FCC Rcd 6707 (Field Operations Bur. 1993); Jan Mar Courier, Inc., 8 FCC Rcd 7570 (Field Operations Bur. 1993)).

⁷ Excel Petition at 3.

⁸ 47 U.S.C. § 503(b)(2)(B).

to consider such factors, *inter alia*, as the "nature, circumstances, extent and gravity of the violation, and with respect to the violator, the degree of culpability, and history of prior offenses, ability to pay, and such other matters as justice may require."⁹ A history of compliance, then, is only one factor to be considered among several.

5. In issuing the NAL in this case, we applied the above standards to the violations at issue and, as we explained in the NAL, determined that a forfeiture in the amount of \$80,000 was appropriate based on our assessment of the totality of the circumstances surrounding the violations.¹⁰ We consider a carrier's submission of PIC-change requests based on forged LOAs to be particularly egregious.¹¹ Excel has provided no information or arguments in its petition that would mitigate the seriousness of this violation. Furthermore, we note that the number of consumer complaints filed with the Commission against Excel alleging slamming violations has significantly increased in the past several years. The Commission's receipt of slamming complaints against Excel more than tripled between calendar years 1993 and 1994. That number almost doubled between calendar year 1994 and calendar year 1995.¹² The number of consumer complaints filed against Excel is not necessarily probative of a lack of compliance with our PIC-change rules. It may, however, suggest that Excel has systemic problems with its customer acquisition process and is not properly verifying consumer PIC-change requests. Excel has failed to provide any evidence in response to the NAL to contradict this plausible assumption. Furthermore, we also note that the Commission continues to receive consumer complaints containing allegations that the LOA Excel relied upon to change the consumer's PIC bears a forged signature.¹³

B. Possibility of Forgeries by Persons Other than Excel Representatives

6. Excel also contends that the amount of forfeiture should be reduced because the record does not conclusively demonstrate that the LOAs in question were in fact forged. Excel concedes that there is a "substantial possibility" that the LOAs were in fact forged, but argues that the possibility exists that the LOAs were signed by a relative, neighbor, prankster, or perhaps even the complainants, rather than an Excel marketing representative.¹⁴

⁹ 47 U.S.C. § 503(b)(2)(D).

¹⁰ Excel NAL, 10 FCC Rcd at 10,881.

¹¹ Id.

¹² Available staff records show that, in calendar year 1993, the Commission received eight complaints against Excel alleging slamming violations. The Commission received 34 such complaints in calendar year 1994, and 58 in calendar year 1995. We note that staff records also show that, in 1995, of more than 800 companies served with complaints, only eighty-five companies were served with 20 or more complaints.

¹³ See, e.g., Quality of Life Health Services, Inc., Informal Complaint No. 96-06346; Charles J. Coulon, Informal Complaint No. 96-06962; Michael E. Schladand, Informal Complaint No. 96-07192; Douglas L. Skidmore, Informal Complaint No. 96-07193; Artie V. Christian, Informal Complaint No. 96-07194.

¹⁴ Excel Petition at 4 & n.10.

7. To the extent that Excel claims that the wrongful actions at issue here were committed by its marketing representatives and not by it, we note that with regard to PIC changes, the actions of Excel's marketing agent do not relieve Excel of its independent obligation to ensure compliance with our rules, nor do they otherwise mitigate Excel's role in the apparent violations. The Communications Act deems the acts or omissions of an agent or other person acting for a common carrier to be the acts or omissions of the carrier itself.¹⁵ Hence, the Act expressly prohibits a carrier from evading the requirements of the Act or the Commission's rules or orders by hiring someone else who then engages in conduct that contravenes these requirements.

8. As to Excel's speculation about the possible sources of the signatures on the LOAs at issue, we note that, Adelman and Blake (the only parties authorized to request a PIC change for their telephone service, and the parties in the best position to attest to the authenticity of the signatures) have stated that the signatures on the LOAs were made by someone else without their permission or knowledge. Excel concedes that it would be "highly unlikely" that the consumers submitted the erroneous LOAs and subsequently forgot taking the action.¹⁶ We agree and note that, not only did the LOAs bear signatures which both Adelman and Blake deny are theirs, but also the LOAs bear falsified social security numbers and Mr. Blake's name is misspelled.¹⁷ Excel offers no credible evidence to counter Adelman's and Blake's statements that the signatures on the LOAs are not theirs.¹⁸ In the absence of such evidence, we reasonably conclude that the LOAs at issue were executed by someone other than Adelman and Blake without their knowledge or permission.

9. Excel's speculation about other possible sources of the Adelman and Blake signatures is also unpersuasive. None of the sources identified by Excel would appear to have the same "pecuniary" interest that Excel and/or its marketing agents had to switch either Adelman's or Blake's long distance services.¹⁹ As a long distance carrier, Excel's long distance revenues clearly are related to, among other factors, the number of customers using Excel's service. Agents responsible for marketing long distance services on behalf of carriers such as Excel also have a financial interest in converting a customer's presubscribed long distance carrier because their levels of compensation are typically based on the number of customers converted. In any event, it is undisputed that Excel submitted the Adelman and Blake PIC-change requests based upon forged LOAs without taking any action to verify their authenticity. Indeed, Excel provided no information or evidence in its Petition to demonstrate that it has procedures in place

¹⁵ See 47 U.S.C. § 217.

¹⁶ Petition at 4.

¹⁷ Excel NAL, 10 FCC Rcd. at 10,881.

¹⁸ In fact, Excel concedes that Adelman's and Blake's signatures and social security numbers may have been forged by the independent marketing representatives who submitted the forms at issue. Id.

¹⁹ We note that the unauthorized conversion of a customer's presubscribed long distance carrier continues to be a wide-spread problem in the telecommunications industry. In 1995, of the 38,000 consumer complaints processed by the Consumer Protection Branch, approximately one third involved allegations of slamming.

to properly verify PIC-change requests. We find it significant that, even in the face of our admonishment in the NAL that we view the practice of slamming through the use of forged LOAs to be particularly egregious, Excel failed to provide any sworn statement regarding its PIC-change verification procedures and their effectiveness in guarding against such practices. Under these circumstances we find no basis in Excel's Petition to warrant a reduction in the forfeiture amount.

III. CONCLUSION

10. After reviewing the information filed by Excel in its Petition, we find that Excel has failed to identify facts or circumstances to persuade us that there is any basis for reconsidering the NAL. Nor has Excel shown any mitigating circumstances sufficient to warrant a reduction of the \$80,000 forfeiture penalty for which Excel is liable.

IV. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED that Excel Telecommunications, Inc. FORFEIT to the United States Government the sum of eighty thousand dollars (\$80,000) for violations of the Commission's rules governing primary interexchange carrier conversions. Payment may be made in the manner provided for in Section 1.80 of the Commission's rules within 30 days from the release of this Order.²⁰ If the forfeiture is not paid within the period specified, the case will be referred to the Department of Justice for collection pursuant to Section 504(a) of the Communications Act.²¹

12. IT IS FURTHER ORDERED, that a copy of this Memorandum Opinion and Order shall be sent by certified United States mail, return receipt requested, to Kenny Troutt, Chairman, President and Chief Executive Officer, Excel Telecommunications, Inc., 9101 LBJ Freeway, Suite 800, Dallas, Texas 75243.

FEDERAL COMMUNICATIONS COMMISSION


Regina M. Keeney
Chief, Common Carrier Bureau

²⁰ 47 C.F.R. § 1.80. Such forfeiture amount should be paid by check or mail order drawn to the order of the Federal Communications Commission. Reference should be made on Excel Telecommunication, Inc.'s check or money order to "NAL/Acct. No. 516EF0005." Such remittance should be mailed to the Forfeiture/Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482.

²¹ 47 U.S.C. § 504(a).

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Excel Telecommunications, Inc. for violation of Rule 25-4.118, F.A.C., Interexchange Carrier Selection.

DOCKET NO. 971490-TI
ORDER NO. PSC-99-0368-AS-TI
ISSUED: February 22, 1999

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.

ORDER APPROVING SETTLEMENT

BY THE COMMISSION:

Background

Excel Telecommunications, Inc. (Excel), Certificate No. 2440, is a provider of interexchange telecommunications service and was certificated on March 21, 1990. Excel reported gross operating revenues of \$73,584,960 and intrastate revenues of \$16,088,967 on its Regulatory Assessment Fee Return for the period January 1, 1997, through December 31, 1997. As a provider of interexchange telecommunications service in Florida, Excel is subject to the rules and regulations of this Commission.

For the period April 1, 1996, through April 9, 1998, the Commission staff received 37 complaints against Excel that were determined to be apparent unauthorized carrier change (slamming) infractions in violation of Rule 25-4.118, Florida Administrative Code. Based on the number of complaints received and the number of apparent slamming violations, the Commission issued Order No. PSC-98-1000-SC-TI, on July 22, 1998, requiring Excel to show cause why it should not have certificate number 2440 canceled or be fined \$1,110,000 for 37 apparent violations of Rule 25-4.118, Florida

DOCUMENT NUMBER-DATE

02287 FEB 22 99

ORDER NO. PSC-99-0368-AS-TI
DOCKET NO. 971490-TI
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Administrative Code. On August 11, 1998, Excel filed a timely response to the Show Cause Order and a Motion for More Definite Statement. On December 17, 1998, Excel submitted an offer of settlement which is attached as Attachment A and incorporated herein by reference.

Motion for More Definite Statement

When Excel filed its response to the Commission's Show Cause Order, it also filed a Motion for More Definite Statement. Since we have approved Excel's Offer of Settlement, the outstanding Motion has become moot.

Settlement Terms

On December 17, 1998, Excel submitted an offer to settle. In its settlement offer Excel agreed to do the following:

1. Excel will establish a toll-free slamming awareness hotline.
2. Excel will cooperate with the Commission in establishing a system whereby customers calling the Commission with complaints of unauthorized PIC changes may be transferred directly to Excel's toll-free line with the goal of prompt resolution.
3. Excel commits to engaging in ongoing dialogue and quarterly reviews, conducted by conference call if appropriate, with Commission staff of complaints lodged against it with the Commission.
4. Excel will file civil actions in Florida against Independent Representatives (IRs) who cheat Excel and customers by submitting forged LOAs.
5. Excel will determine whether data bases are available under public records law or on some more cost-effective basis so that cross-verification of LOAs against social security numbers or drivers license numbers can be performed routinely.
6. Excel will create an award program that encourages error free completion of LOAs.

ORDER NO. PSC-99-0368-AS-TI
DOCKET NO. 971490-TI
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7. Whenever Excel has reason to believe that an IR has forged an LOA, as a normal part of its investigation, Excel will review the validity of every LOA submitted by that IR during the preceding six months.
8. Excel will make a contribution of \$68,000 to the general revenue fund of the State of Florida with no admission of liability or wrongdoing.

We support Excel's proposal to establish a toll-free slamming awareness number in addition to establishing a warm transfer system with the Commission for consumer complaints. We find this will allow for expedited resolution of those consumer complaints. We also support Excel's proposal to file civil action against IRs who forge LOAs because we believe this will encourage Excel representatives to be extremely more accurate when completing LOAs. Furthermore, we support Excel's proposal to re-evaluate LOAs previously submitted by an IR who appears to have forged an LOA because this will enable Excel to determine whether a pattern of behavior exists.

The company has satisfactorily addressed all our concerns. Therefore, we find the terms of the settlement agreement to be fair and reasonable. Accordingly, the offer of settlement submitted by Excel on December 17, 1998, is approved.

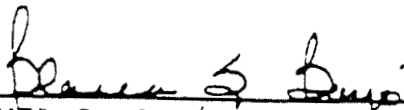
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the offer of settlement dated December 17, 1998, by Excel Telecommunications, Inc. is hereby approved. It is further

ORDERED that this docket shall remain open pending the remittance of the \$68,000 voluntary contribution. The voluntary contribution shall be submitted within five business days after the Order Approving Settlement becomes final. Upon remittance, the \$68,000 voluntary contribution shall be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes, and this docket may be closed administratively.

ORDER NO. PSC-99-0368-AS-TI
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By ORDER of the Florida Public Service Commission this 22nd
day of February, 1999.



BLANCA S. BAYO, Director
Division of Records and Reporting

(S E A L)

CB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

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DOCKET NO. 971490-TI
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ATTACHMENT A

WIGGINS & VILLACORTA, P.A.

ATTORNEYS AT LAW

POST OFFICE DRAWER 1887

TALLAHASSEE, FLORIDA 32302

2148 DELTA BOULEVARD, SUITE 200

TALLAHASSEE, FLORIDA 32302

DEC 17 5 13 PM '99

COMMUNICATIONS
MAIL ROOM

TELEPHONE (850) 389-6007
FACSIMILE (850) 389-6006
INTERNET: wvgmll@nenally.com

December 17, 1998

Ms. Cathy Bedell
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 971490-TI

Dear Ms. Bedell:

The purpose of this letter is to propose a settlement of the above docket. As such, this communication is privileged and confidential,¹ and nothing herein may be viewed as an admission against interest,² or in any way used against Excel if this matter is not settled.

I. INTRODUCTION

This is the fourth formal settlement proposal made by Excel in this proceeding and is crafted to respond to staff's reaction to our third proposal. We are hopeful that our mutual efforts to resolve this matter without litigation will now be successful.

This settlement proposal contains three basic parts. First, Excel proposes certain additional prophylactic and remedial measures as refinements to Excel's already comprehensive approach to avoiding unauthorized PIC conversions. Second, Excel addresses the nature of its responsibility for the conduct of its Independent Representatives (IRs). And third, Excel proposes a voluntary contribution to the State in settlement of the alleged violations contained in the Show Cause Order.

¹ Excel is not claiming protection from disclosure under the Public Records law, but rather protection against use of this communication against it if this matter cannot be settled.

² More specifically, nothing in this proposal may be viewed as an admission by Excel that it has willfully transferred a PIC without authorization or engaged in any other behavior that would justify sanctions under Section 364.285, Florida Statutes.

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ATTACHMENT A

Ms. Cathy Sedell
December 17, 1998
Page 4

have these protocols, does not ratify the forgeries, and is in fact harmed by them, Excel will bring civil actions against the IRs. Any acquiescence in the proposition that Excel is vicariously liable for the unlawful behavior of the IRs where warranted would in fact undercut its ability to bring the civil suits, and thus would be counter-productive to the public interest.

C. Voluntary Contribution

Subject to the conditions stated below, Excel will offer a voluntary contribution to the State of Florida General Revenue Fund of \$68,000 in settlement of any and all complaints arising from or relating to alleged unauthorized PIC changes contained in the Show Cause Order.

Excel does not, by this proposal, admit any violation of any statute, Commission Rule, or other rule, regulation or order, or any facts which might form the basis of a cause of action against the Company. By making this proposal, Excel does not waive any of its legal rights in the event the Commission does not accept this proposal, including the right to contest any and all assertions of fact or law set forth in the staff recommendation. If this offer is accepted by the Commission, it shall be attached to the final order accepting the settlement and closing the docket.

III. CONCLUSION

Excel hopes that the staff and the Commission find this proposal acceptable. If you have any questions about this proposal, please do not hesitate to call.

Sincerely,


Patrick Knight Wiggins

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ATTACHMENT A

APPENDIX

CONTROLS AND PROCEDURES USED BY EXCEL TO
THE PREVENT UNAUTHORIZED PIC CONVERSIONS

I. INTRODUCTION

Excel was founded in 1988, and began providing long distance service in 1989. In 1997, Excel had sales of \$1.5 billion. Excel employs approximately 3,700 nationwide, and has over 5,000,000 customers. By year's end, Excel will have spent \$69 million on customer service in 1998.

Excel's telecommunications sales are predominantly to the residential market, with particular strength in rural markets -- the same markets that currently have little alternatives for local phone service. Excel has been a pioneer in offering low-cost, high-quality service to its customers. Excel was a leader in adopting the 10 cents a minute/anytime interstate rate (Dime Deal), and now has a 7 cents a minute interstate rate for high volume residential customers (Simply Seven).

Excel recently received very positive results in the J.D. Powers Residential Long Distance Customer Satisfaction Survey. This report is a syndicated study independently funded by J.D. Powers, which acts as an unbiased third party analyzing consumers' opinions. In the area of credibility/cost/value, Excel ranked number one by customers averaging over \$50 per month in long distance usage and number two by customers averaging less than \$50 per month. Excel also showed improvements since 1997 in the areas of call quality, customer service, and corporate image. Customers billing less than \$50 per month ranked Excel as the top company at resolving problems with a single call. In the over \$50 group, Excel's customers reported the fewest service problems of any provider.

This extraordinary customer satisfaction reflects Excel's uncommon commitment to excellence. And this commitment to excellence is also reflected in Excel's efforts to avoid unauthorized PIC conversions, which are are focused in three basic areas:

- in the design and operation of its PIC transfer system;
- in the ongoing training of its employees; and
- the ongoing training of the Independent Representatives (IR) who market Excel services.

These areas are addressed in more detail below.

ORDER NO. PSC-99-0368-AS-TI

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ATTACHMENT A

5. Extensive Review of Possibly Forged LOAs

LOAs that are possibly forged merit special discussion here. When Excel receives a "service not requested" complaint from a consumer the possibility of a forgery is raised. Immediately a letter is sent to the IR giving him or her ten days to respond. If no response is received, then the IR's agency relationship with Excel is immediately terminated. If the explanation from the IR is unsatisfactory, the relationship is terminated.

At the same time the letter is being forwarded to the IR, the complaint is referred to a special investigation group that does a data base search of both the IR's "upline" and "downline" to see if there have been any other problems in that cluster of IRs. If so, appropriate action is taken.

Excel has not been content to leave the matter of forgery with simply terminating agency relationship with the IR. If an IR forges an LOA, he or she must be held accountable for the violation of company and regulatory policy. In this respect, Excel's materials make it clear that Excel will cooperate in any criminal or civil enforcement action against the IR by the government.

In Florida, Excel attempted to refer possible forgeries for prosecution in 1995. Specifically, on behalf of Excel I wrote the Attorney General for the State of Florida asking for assistance in prosecuting IRs who forge LOAs. The Attorney General declined to assist, and instead referred Excel to the Public Service Commission.

Given that law enforcement agencies are not able or willing to prosecute IRs who cheat Excel and customers by forging LOAs, Excel recently took the next step and filed civil actions against certain IRs. To date such actions have been filed in Texas and Louisiana. Excel has plans to file similar suits in Florida in the near future.

B. TIMELY HIRING AND COMPLETE TRAINING OF
TELESERVICES REPRESENTATIVES (TSRs)

Excel has formalized policies with respect to training its employees. TSRs receive excellent training on what constitutes slamming, how unauthorized switches may occur, and steps to be taken to address the situation.

C. TIMELY AND COMPLETE TRAINING OF IRS

ORDER NO. PSC-99-0368-AS-TI

DOCKET NO. 971490-TI

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ATTACHMENT A

Excel has established a formal training system available to all IRs. The Company conducts unannounced and anonymous audits of training presentations to ensure compliance with the Company policies and procedures with trainers held accountable for the accuracy of the training presentation.

D. PERFORMANCE REVIEW

In connection with its CLEC application in Texas, Excel in late 1997 retained Deloitte & Touche, LLP to conduct a "Review of Internal Controls and Procedures Pertaining to Customer Care and the Prevention of Slamming." This Review documents the extensive processes and controls proactively implemented by Excel to prevent, detect and monitor the unauthorized switching of customers. This Review also reflects that these processes and controls have been continually adjusted to respond to changes in Excel's business and reinforce customer service and anti-slamming efforts.

E. TIMELY RESPONSES TO STAFF INQUIRIES OF CUSTOMER COMPLAINTS

The Florida Public Service Commission has emphasized the importance of timely responding to its staff inquiries. Excel has consistently met this requirement because it has devoted significant resources to working effectively with regulatory authorities.

III. CONCLUSION

The controls and procedures outlined above reflect Excel's total company commitment to avoid unauthorized PIC transfers. The refinements to these controls and procedures as described in Excel's proposed settlement will serve to enhance this commitment and to improve further Excel's performance in this vital area.

mcrshat/excel.app

Public Utility Commission of Texas

Memorandum

RECEIVED
99 SEP -2 11 2 20
FILING CLERK

TO: Pat Wood, III, Chairman
Judy Walsh, Commissioner
Brett A. Perlman, Commissioner

All Parties of Record

FROM: Jo Alene Kinkel *OK*
Director of Enforcement
Office of Customer Protection

DATE: August 31, 1999

RE: DOCKET NO 20933—Office of Customer Protection (OCP)
Investigation of Excel Communications, Inc. for Continued Violations of
P.U.C. Substantive Rules §26.130. Selection of Telecommunications
Utilities, Pursuant to P.U.C. Procedural Rules § 22.2-46. Administrative
Penalties

Enclosed is a copy of the Proposed Order in the above-referenced docket. The proceeding is an enforcement action for alleged violations of Commission rules, and was settled by stipulation and agreement. The Proposed Order approves the Stipulation and Settlement Agreement and dismisses the docket.

The Commission will consider the docket at an open meeting presently scheduled for Thursday, September 23, 1999, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties shall file corrections or exceptions to the Proposed Order on or before Tuesday, September 14, 1999. If there are no corrections or exceptions, no response is necessary.

Enc.

DOCKET NO. 20933

OFFICE OF CUSTOMER	§	PUBLIC UTILITY COMMISSION
PROTECTION (OCP)	§	
INVESTIGATION OF EXCEL	§	
COMMUNICATIONS, INC. FOR	§	OF TEXAS
CONTINUED VIOLATIONS OF	§	
P.U.C. SUBSTANTIVE RULES	§	
§26.130 SELECTION OF	§	
TELECOMMUNICATIONS	§	
UTILITIES PURSUANT TO	§	
PROCEDURAL RULES §22.246,	§	
ADMINISTRATIVE PENALTIES	§	

PROPOSED ORDER

This Order reflects that the alleged violations of P.U.C. SUBST. R. 23.106 were resolved pursuant to the parties' Stipulation and Settlement Agreement. No issues remain. The Order, incorporating the terms of the Stipulation and Settlement Agreement, dismisses the proceeding.

I. Findings of Fact

Procedural History

1. On February 2, 1998, a Notice of Intent to Assess an Administrative Penalty for Violations of PUC Substantive Rules §23.106 (now §26.130), Selection of Telecommunications Utilities ("First Notice"), was issued to Excel Telecommunications, Inc. (Excel) based on four validated complaints. On March 5, 1998, Excel submitted a response to the First Notice indicating that corrective actions were taken. On March 18, 1998, OCP closed the investigation of the four related complaints and did not recommend assessment of an administrative penalty at that time. However, the OCP letter stated that any subsequent unauthorized switch in telephone service by Excel would not be considered accidental and inadvertent and would be treated as a repeat violation for the purpose of assessing an administrative penalty.

2. OCP has received 39 complaints against Excel for unauthorized switches in long distance telephone service since September 1, 1997, the date the PUC was granted jurisdiction over

unauthorized switching of a telecommunications utility, for which OCP has determined Excel is apparently responsible. Of this total, 14 unauthorized switches occurred before March 5, 1998, the date that Excel responded to the First Notice of February 2, 1998. Subsequent to March 5, 1998, 25 unauthorized switches in service occurred resulting in continued violations subject to the assessment of an administrative penalty.

3. On April 22, 1999, a "Notice of Intent to Assess an Administrative Penalty for Continuing Violations of PUC Substantive Rules §26.130, Selection of Telecommunications Utilities (Second Notice)," was issued to Excel based on 25 unauthorized switches in service that occurred after March 5, 1998. Excel received this notice on April 26, 1999.

4. On May 25, 1999, Excel requested a settlement conference pursuant to P.U.C. SUBST. R. 22.246(g).

5. OCP and Excel are the only parties to this proceeding.

Stipulation and Settlement Agreement

6. Excel asserts that it has cured the alleged violations that lead to the notices identified in Paragraphs 1 and 3. Additionally, Excel states that the changes of carrier were not due to any intentional violation of the PUC Substantive Rules by Excel.

7. The parties desire to compromise and settle the issues raised by the Commission's administrative penalty notices in order to avoid the time, effort, and expense of preparation for hearing, the hearing process and any appeal from the ultimate decision on the issues raised and litigated.

8. Without conceding that it has committed any violation of PUC Substantive Rules §26.130, Excel is willing to make a voluntary contribution of **THIRTY FIVE THOUSAND AND NO/100 DOLLARS (\$35,000.00)** to the treasury of the State of Texas. Full payment of the voluntary contribution shall be made no later than October 1, 1999. The contribution check shall be payable to the Texas Comptroller of Public Accounts.

DOCKET NO. 20933

PROPOSED ORDER

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9. Excel agrees to implement or continue operating policies and procedures intended to reduce and mitigate slamming complaints against Excel.

10. OCP will not seek administrative penalties nor take other enforcement action against Excel with regard to any incidents of slamming that have occurred prior to September 23, 1999. OCP will, however, continue to forward customer complaints about such incidents to Excel for investigation and resolution. In the event that complaints about slamming by Excel are determined by OCP to be valid, Excel shall take all corrective actions required by the PUC rules and by law, including, but not limited to, refund of slamming charges to affected customers. If Excel fails to take corrective action on any valid slamming complaint, OCP may take enforcement action against Excel. Also, any violations of PUC Substantive Rules §26.130 occurring after September 23, 1999 may be considered as repeat violations for the purpose of assessing an administrative penalty.

Disposition

11. All issues in this proceeding are fully stipulated so that no issues of fact or law are disputed by any party. No hearing is necessary.

12. The Stipulation and Settlement Agreement is reasonable and should be approved.

II. Conclusions of Law

1. Excel is a telecommunications utility, as defined in § 51.002(11) of the Public Utility Regulatory Act (PURA).¹

2. The Commission has jurisdiction and authority over this proceeding pursuant to PURA §§ 15.023, 15.027, 52.002(a), and 55.305.

3. No evidentiary hearing is necessary because there is no genuine issue as to any material fact and no dispositive issue remains in dispute.

4. This proceeding, consistent with the Stipulation and Settlement Agreement, may be approved without a hearing pursuant to TEX. GOV'T CODE ANN. § 2001.056 (Vernon 1998).

DOCKET NO. 20933

PROPOSED ORDER

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PUBLIC UTILITY COMMISSION OF TEXAS

PAT WOOD, III, CHAIRMAN

JUDY WALSH, COMMISSIONER

BRETT A. PERLMAN, COMMISSIONER

Excel Agreement:

3 of 4

- a. A toll-free slamming awareness hotline;
- b. Double keying of LOA information;
- c. Use of a "Hot Key" three-way connection between customer, LEC, and Excel to expedite resolution of customer complaints;
- d. Zero Tolerance for slamming policy, including termination of independent representatives for alleged forgery;
- e. Continuing training of customer service representatives to prevent inadvertent reactivation of customer accounts;
- f. Creation of an award program that encourages error-free completion of LOAs;
- g. Investigation of civil actions/arbitrations against representatives for instances of alleged forgery in the cases at issue in this settlement; and,
- h. Implementation of Third Party Verification, on a phased-in basis, eventually to comprise 100% of Excel residential verifications in Texas. Excel will commence implementation planning immediately, subject to competing information technology considerations (e.g., Y2K issues). As part of its implementation, Excel will solicit input from OCP staff on the text of the verification script and other aspects of the program.

(8) OCP will not seek administrative penalties nor take other enforcement action against Excel with regard to any incidents of slamming that have occurred prior to execution of this Agreement. OCP will, however, continue to forward customer complaints about such incidents to Excel for investigation and resolution. In the event that complaints about slamming by Excel are determined by OCP to be valid, Excel shall take all corrective actions required by the PUC rules and by law, including, but not limited to, refund of slamming charges to affected customers. If Excel fails to take corrective action on any valid slamming complaint, OCP may take enforcement action against Excel. Also, any violations of PUC Substantive Rules §26.130 occurring after the final execution of this Agreement may be considered as repeat violations for the purpose of assessing an administrative penalty.

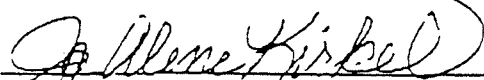
(9) This Agreement contains the entire agreement between OCP and Excel, and the terms of this Agreement are contractual and not a mere recital.

Excel Agreement
4 of 4


(10) Excel warrants that it has read the foregoing document carefully, knows the contents thereof, and signs the same as its free act.

EXECUTED this 20th day of August, 1999.

Office of Customer Protection
Public Utility Commission of Texas


Jo Alene Kirkel
Director of Enforcement

Excel Telecommunications, Inc.


Jesus Sifuentes
Attorney for Excel Telecommunications,
Inc.



- (A-15) Has the applicant been involved in any civil or criminal investigations related to the delivery of telecommunications services within the last five years? If "yes," in which states has the applicant been involved in investigations and why is the applicant being investigated?**

The following civil investigative matter is pending:

Oregon Department of Justice, Civil Enforcement Division, 1162 Court Street, NE, Salem, Oregon 97310. On April 13, 1999, Excel received correspondence from the Department notifying the company of an investigation into unauthorized PIC changes. The complaints forwarded to the company to date involve instances of accidental or inadvertent switches, such as data entry errors or network routing issues. Efforts to resolve this matter continue.

The following matter is pending:

Wisconsin Department of Agriculture, Trade and Consumer Protection.

In May 1998 Excel increased its rates for intrastate calls in Wisconsin by 5 cents per minute under one of its long distance service plans. Approximately one month prior to the effective date of the rate increase notices were placed in the five largest newspapers in Wisconsin to inform customers of the rate change. The Wisconsin Department of Agriculture, Trade and Consumer Protection ("DATCP") has asserted that Excel increased rates for intrastate calls in Wisconsin without providing the proper notice to customers of the rate increase. Excel's believes that the regulation establishing the notice requirement is unclear, and that newspaper notices placed by Excel prior to the rate increase were sufficient, and that customers could also use a toll free number provided by Excel to inquire about the rate increase. DATCP began its collecting information on this issue in late 1998. Negotiations between Excel and DATCP are continuing.

Although the following matter did not involve a civil or criminal investigation, the following civil suit has been settled:

Nevada Office of the Attorney General, 100 N. Carson Street, Carson City, Nevada 89701. The Office of the Attorney General filed a civil complaint against Excel Telecommunications on May 3, 1999. The suit claimed the company made unauthorized changes in consumers' long distance services. In settlement of this action, Excel agreed to make a voluntary contribution to the State in the amount of \$75,000, among other measures.

**STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL**

Protecting Citizens, Solving Problems, Making Government Work

FOR IMMEDIATE RELEASE

February 4, 2000

**CONTACT: Marshall Smith
(775) 688-1977**

**EXCEL TELECOMMUNICATIONS AGREES TO
IMPLEMENT CHANGES REGARDING OBTAINING LONG
DISTANCE CUSTOMERS**

Attorney General Frankie Sue Del Papa and Excel Telecommunications, Inc. (Excel), announced today that the complaint filed by the Attorney General's Office against Excel Telecommunications, Inc. claiming that Excel unlawfully switched consumer's long distance providers, has been settled. This practice is known as "slamming." Excel, a Texas Corporation, has agreed to institute, by February 14, 2000, a third party verification system which is designed to eliminate unauthorized changes in consumers' long distance provider. Also, as part of a settlement reached with the Attorney General's Office, Excel, which denied the allegations of slamming, will make a voluntary payment of \$75,000.00 to the State of Nevada.

Excel provides a broad range of telecommunications services, including long distance telecommunications. In November 1998, the Attorney General's Office began receiving complaints from consumers that Excel had switched their long distance carrier without authorization by both electronic means and by forgeries of customer authorizations by Excel "independent representatives". Excel disputed these complaints and asserted that many of the transfers were attributable to technical errors by a local exchange carrier, were the unauthorized acts of "independent representatives", and/or did not occur.

In voluntary settlement of the State's action, Excel has agreed that it will:

- * Follow the requirements of Nevada's "anti-slamming" legislation, which came into effect on June 8, 1999;
- * Implement a third-party verification system prior to switching residential customers to its long distance services;
- * Voluntarily pay \$75,000.00 to the State for attorneys fees, investigative costs, for consumer education, litigation or local consumer aid funds, or for public protection or consumer protection purposes.

Del Papa acknowledged Excel's "cooperation in bringing this matter to closure." "Competition among long distance providers for customers is fierce. When consumers are switched from their preferred carrier without their authorization, it injures not only the consumer, but the industry as a whole," Del Papa said. "This was the first civil complaint of its kind brought against a telecommunications provider in Nevada...We want the message

to go out that slamming will not be tolerated in the state," added Del Papa. An Excel spokesman responded that, "Excel has long enforced a "zero tolerance" policy against slamming, and our imminent implementation of third party verification in Nevada strengthens that commitment." For more information on the Nevada Bureau of Consumer Protection, visit the Nevada Attorney General's Web site.

[OAG Webmaster](#)



[Nevada Home Page](#)



[OAG Home Page](#)



ARIZONA CORPORATION COMMISSION

DOCKET NUMBER U-2584-91-016

ATTACHMENT B

EXCEL TELECOMMUNICATIONS, INC.

ARIZONA C.C. TARIFF NO. 1

TARIFF SCHEDULES

**APPLICABLE TO
COMMUNICATION SERVICES
IN THE STATE OF ARIZONA**

Offered by:

Excel Telecommunications, Inc.

This tariff contains the descriptions, regulations, and rates applicable to the furnishing of service and facilities for telecommunications services provided by Excel Telecommunications, Inc. with principal offices at 8750 N. Central Expressway, Lockbox 6; Dallas, Texas 75231, telephone number (214)863-8000. This tariff applies to services furnished within the State of Arizona.

Issued:

Effective:

**Issued By: Jerry G. Kirby, Tariff Manager
Excel Telecommunications, Inc.
8750 North Central Expressway, Lock Box #6
Dallas, Texas 75231
(214) 863-8000**

CHECK SHEET

All pages of this tariff are effective as of the date shown at the bottom of the respective page(s). Original and revised pages as named below comprise all changes from the original tariff and are currently in effect as of the date on the bottom of this page.

<u>PAGE</u>	<u>REVISION</u>	<u>PAGE</u>	<u>REVISION</u>
Title	Original	30	Original
1	Original	31	Original
2	Original	32	Original
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24	Original	54	Original
25	Original	55	Original
26	Original	56	Original
27	Original	57	Original
28	Original	58	Original
29	Original		

* Indicates Revision

Issued:

Effective:

Issued By: Jerry G. Kirby, Tariff Manager
Excel Telecommunications, Inc.
8750 North Central Expressway, Lock Box #6
Dallas, Texas 75231
(214) 863-8000

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CONCURRING, CONNECTING AND PARTICIPATING CARRIERS

Concurring Carriers: None.

Connecting Carriers: None.

Participating Carriers: None.

Explanation of Symbols, Reference Marks, and Abbreviations

The following symbols shall be used in this tariff for the purposes indicated below:

- (C) - to signify change regulations
- (D) - to signify discontinued rate or regulation.
- (I) - to signify rate increase.
- (N) - to signify new rate or regulation.
- (R) - to signify reduction in rate.
- (S) - to signify a reissued matter
- (T) - to signify a change in text but no change in rate regulation

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TARIFF FORMAT

- A. **Sheet Numbering** - Sheet numbers appear in the upper right corner of the sheet. Sheets are numbered sequentially. However, new sheets are occasionally added to the tariff. When a new sheet is added between sheets already in effect, a decimal is added. For example, a new sheet added between sheets 14 and 15 would be 14.1.
- B. **Sheet Revision Numbers** - Revision numbers also appear in the upper right corner of each sheet. These numbers are used to determine the most current sheet version on file with the Commission. For example, the 4th revised sheet 14 cancels the 3rd revised sheet 14.
- C. **Paragraph Numbering Sequence** - There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:
- 2
 - 2.1
 - 2.1.1
 - 2.1.1.A
 - 2.1.1.A.1
 - 2.1.1.A.1.(a)
 - 2.1.1.A.1.(a).I
 - 2.1.1.A.1.(a).I.(i)
 - 2.1.1.A.1.(a).I.(i).(1)
- D. **Check Sheets** - When a tariff filing is made with the Commission, an updated Check Sheet accompanies the tariff filing. The Check Sheet lists the pages contained in the tariff, with a cross reference to the current revision number. When new pages are added, the check sheet is changed to reflect the revision. All revisions made in a given filing are designated by an asterisk (*). There will be no other symbols used on this page if these are the only changes made to it (i.e., the format, etc. remain the same, just revised revision levels on some sheets.) The tariff user should refer to the latest Check Sheet to find out if a particular page is the most current on file with the Commission.

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SECTION I - TECHNICAL TERMS AND ABBREVIATIONS

Accounting Code -

A multi-digit code which enables a Customer to allocate long distance regulated charges to its internal accounts.

Access Line -

A circuit used to carry long distance calls all or part way between Customer premises and the Company's underlying carrier's switches.

Authorization Code -

A numerical code, one or more of which are assigned to a Customer to enable Company to identify use of Service on the Customer's account and to bill the Customer accordingly. Multiple authorization codes may be assigned to a Customer to identify individual users or groups of users. Entitlement to any authorization code shall create no property or other right or interest in the use of any particular authorization code.

Authorized User -

A person, firm, corporation, or any other entity authorized by the Customer to communicate, utilizing the Company's service.

Commission -

The Arizona Corporation Commission

Company -

Excel Telecommunications, Inc. (Excel)

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SECTION I - TECHNICAL TERMS AND ABBREVIATIONS, (CONTINUED)

Customer -

The person, firm, corporation or other entity which orders, cancels, amends or uses service under this tariff and is responsible for payment of regulated charges and compliance with the Company's tariff.

Holidays -

For the purposes of call rating, the Company observes the following holidays (as Federally observed):

Thanksgiving Day
New Year's Day

Christmas Day
Independence Day

Labor Day

Long Distance Resale Service -

Long Distance Resale Service is a public communications service for hire, which includes providing long distance service to Customers through the resale of services provided by multiple other common carriers.

User -

A person, firm, corporation or other entity which contracts and/or presubscribes with Excel for services offered by Excel, as set forth in this tariff, and is responsible for payment of regulated charges and compliance with the Company's tariff.

V & H Coordinates -

Geographic points which define the originating and terminating points of a call in mathematical terms so that the airline mileage of the call may be determined. Call mileage is used for the purpose of rating calls.

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SECTION II - RULES AND REGULATIONS

2.1 Undertaking of Excel

- 2.1.1 Excel's services are furnished for communications originating at specified points within one state to locations in another state under terms of this tariff. Service is provided twenty four hours a day, seven days a week.
- 2.1.2 Excel is a resale common carrier. Excel's services provide interstate long distance message telephone service to Customers for their direct transmission and reception of voice, data, and other types of communications. Excel may act as the Customer's agent for ordering access connection facilities provided by other carriers or entities (such as the local exchange carrier), when authorized by the Customer, to allow connection of a Customer's location to Excel's service. The Customer shall be responsible for all regulated charges due for such service arrangement. The Company agrees to dutifully abide by all Rules and Regulations as set forth by the Commission.
- 2.1.3 The Customer's monthly charge for services are based upon the total time the Customer actually uses the service subject to billing increments set forth in this tariff and any additional charges which may apply.
- 2.1.4 The rates and regulations contained in this tariff apply only to the services furnished by Excel and do not apply to the lines, facilities, or services provided by a local exchange telephone Company or other common carrier for use in accessing the services of Excel.

2.2 Initial Contract Period and Termination of Service by Customer

- 2.2.1 Contract Periods - The initial contract period for service is thirty (30) days.
- 2.2.2 Termination by Customer - Service may be canceled at any time by a Customer. A Customer taking dedicated WATS or Point to Point services may cancel service on not less than thirty (30) days prior written notice to Company.

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SECTION II - RULES AND REGULATIONS, (CONTINUED)

2.3 Obligation of Customer

2.3.1 The Customer will assume responsibility for all usage and services billed.

2.4 Limitations

2.4.1 Service is offered subject to the availability of the necessary facilities and equipment, or both facilities and equipment, provided by other carriers subject to the provision of this tariff.

2.4.2 Excel reserves the right to disconnect or limit service when necessitated, per Commission Rules and with twenty four hours written notice, by conditions beyond its control, or when the Customer is using service in violation of provision of this tariff, or in violation of the law.

2.5 Use

2.5.1 Services provided under this tariff may be used for any lawful purpose for which the service is technically suited.

2.6 Liability of Company

2.6.1 Liability of the Company for damages arising out of mistakes, omissions, interruptions, delays or errors or defects in the transmission occurring in the course of furnishing service, channels or other facilities and not caused by the negligence of the Customers, commences upon activation of service and in no event exceeds an amount equivalent to the proportionate charge to the Customer for the period of service during which such mistakes, omissions, interruptions, delays or errors or defects in the transmission occur, or as otherwise determined in a court of law. For the purposes of computing such amount a month is considered to have thirty (30) days.

2.6.2 In no event will Company be responsible for consequential damages or lost profits suffered by Customer on account of interrupted or unsatisfactory service.

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SECTION II - RULES AND REGULATIONS, (CONTINUED)

2.7 Responsibilities of the Customer

- 2.7.1 The Customer is responsible for compliance with the applicable regulations set forth in this tariff.
- 2.7.2 The Customer is responsible for placing any necessary orders; for complying with tariff regulations; and for assuring that users comply with tariff regulations. The Customer shall ensure compliance with any applicable laws, regulations, orders or other requirements (as they exist from time to time) of any governmental entity relating to services provided or made available by the Customer to other Customers.
- 2.7.3 The Customer shall ensure that Customer's terminal equipment and/or system is properly interfaced with Excel's underlying carriers network and that the signals emitted into the equipment and facilities provided by Excel's underlying carrier's are of the proper mode, bandwidth, power, and signal level for the intended use of the Customer and in compliance with the criteria set forth in this tariff, and that the signals do not damage equipment, injure personnel, or degrade service to other Customers.

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SECTION II - RULES AND REGULATIONS, (CONTINUED)

2.8 Disconnection

- 2.8.1** Without incurring liability Excel may disconnect services to a Customer or may withhold the provision of ordered or contracted services, subject to the procedures per Commission Rules and with written notice, under any of the following conditions:
- 2.8.1.A** For nonpayment of any sum due Excel may for more than thirty days after issuance of the bill for the regulated amount due.
- 2.8.1.B** For periods of account inactivity in excess of sixty days.
- 2.8.1.C** In the event that the Customer supplies false or inaccurate information of a material nature in order to obtain service.
- 2.8.1.D** For violation of any of the provisions of this tariff.
- 2.8.1.E** For the use of foul or profane expressions, the impersonation of another with fraudulent intent.
- 2.8.1.F** For violation of any law, rule, regulation or policy of any governing authority having jurisdiction over Excel's services.
- 2.8.1.G** By reason of any order or decision of a court or other governing authority prohibiting Excel from furnishing its services.
- 2.8.1.H** If the Customer fails to maintain Customer's equipment and/or system properly, with resulting imminent harm to Excel's services, personnel, or the quality of service to other Customers, Excel may, upon written notice, require the use of protective equipment at the Customer's expense. If this fails to produce satisfactory quality and safety, Excel may, upon written notice, terminate the Customer's service.

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SECTION II - RULES AND REGULATIONS, (CONTINUED)

2.8 Disconnection, (Continued)

2.8.2 Excel may disconnect service without notice for any of the following reasons:

2.8.2.A If a Customer or user causes or permits any signals or voltages to be transmitted over the equipment and facilities provided by Excel's underlying carrier's in such a manner as to cause a hazard or to interfere with Excel's service to others

2.8.2.B If a Customer or user uses Excel's services in a manner to violate the law.

2.8.3 Procedures for disconnection of existing service:

2.8.3.A In all other circumstances, Excel will provide the Customer with written notice stating the reason for disconnection, and will allow the Customer not less than 10 days to remove the cause for disconnection. In cases of non payment of regulated charges due, the Customer will be allowed at least five days, excluding Sundays and holidays, to make full payment of all undisputed regulated charges, and in no event will service be disconnected on the day preceding any day on which Excel is not prepared to accept payment of the amount due and to reconnect service.

2.9 Interruption of Service

2.9.1 Without incurring liability, Excel may interrupt the provision of services at any time in order to perform tests and inspections to assure compliance with tariff regulations and the proper installation and operation of Customer equipment and may continue such interruption until any items of noncompliance or improper equipment operation so identified are rectified, in compliance with the Commission Rules. When a Customer(s) service is interrupted and remains out of service for twenty four consecutive hours as a result of the above, or after being reported, the Company shall make an appropriate adjustment to the Customer's bill.

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SECTION II - RULES AND REGULATIONS, (CONTINUED)

2.9 Interruption of Service, (Continued)

2.9.2 Credit allowances for interruptions of service which are due to the negligence of the Customer, or the failure of channels, equipment or communication systems provided by the Customer, are subject to the general liability provisions set forth in Section 2.6 herein. It shall be the obligation of the Customer to notify the Company, when known, immediately of any interruption of service for which a credit allowance is desired by Customer, unless the Company is aware or should be aware of system outages. Before giving such notice, Customer shall ascertain that the trouble is not within his or her control, or is not in wiring or equipment, if any furnished by Customer.

2.9.3 Service may be disconnected by Excel without prior notice to the Customer, but with notice per Commission Rules, by blocking traffic to certain countries, cities, or NXX exchanges, or by blocking calls using certain Customer authorization codes, when Excel deems it necessary to take such action to prevent unlawful use of its service. Excel will restore service as soon as it can be provided the Customer affected and assign a new authorization code to replace the one that has been deactivated, per Commission Rules.

2.10 Customer's Liability in the Event of Denial or Disconnection of Service

2.10.1 In the event Customer's service is denied or disconnected by the Company for any of the reasons stated in Section 2.9, Customer shall be liable for all unpaid regulated charges due and owing to Company.

2.11 Reinstitution of Service

2.11.1 If Customer seeks reinstitution of service following disconnection of service by Company, Customer shall pay to Company prior to the time service is reinstituted (1) all undisputed accrued and unpaid regulated charges and (2) a new reconnection fee as described in Section IV, paragraph 4.20 of this tariff.

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SECTION II - RULES AND REGULATIONS, (CONTINUED)

2.12 Authorization to Obtain Credit Information

- 2.12.1** Company reserves the right to require all Customers to establish credit-worthiness to the reasonable satisfaction of Company. Upon application for service, Customer shall be deemed to have authorized Company to obtain such routine credit information and verification as Company shall require in accordance with its then existing credit policies. All criteria and methods used in the acquisition and assessment of credit related information shall be consistent and uniform for all applicants or Customers.

2.13

Description of Payment and Billing Periods

- 2.13.1** Charges for service are applied on a recurring and non-recurring basis. Service is provided and billed in arrears on a monthly basis until canceled by the Customer.
- 2.13.2** Billing will be payable upon receipt and past due 20 days after deposit in U.S. mail, postage prepaid.
- 2.13.3** Charges for usage are based on actual usage during a month and will be billed monthly in arrears. Service charges will be billed monthly in advance.
- 2.13.4** The Customer is responsible for the payment of ALL regulated undisputed charges for services. This applies to Customers where the provision of service by Carrier includes the use of authorization (access) codes. The Customer agrees to pay to Company ANY regulated undisputed cost incurred as a result of ANY DELEGATION OF AUTHORITY resulting in use of his/her authorization code.
- 2.13.5** Where a Customer, e.g. an employer, provides the use of authorization codes to his/her employees, or where the Customer, e.g. a family member, provides the use of authorization codes to his/her family relations or friend, guest, etc., the Customer agrees to pay to Company ANY regulated undisputed cost incurred as a result of these of the authorization codes.

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SECTION II - RULES AND REGULATIONS, (CONTINUED)

2.14 Advance Payments and Deposits

2.14.1 Advance Payments

Company may require a Customer to make an advance payment before services are furnished. The advance payment will not exceed an amount equal to two-months estimated charges, as determined by Company. The advance payment will be credited to the Customer's bill. An advance payment may be required in addition to a deposit.

2.14.2 Deposits

Company may require a Customer to make a deposit to be held as a guarantee for the payment of charges. A deposit does not relieve the Customer of the responsibility for the prompt payment of bills on presentation. A deposit may be required in addition to an advance payment. The deposit will not exceed an amount equal to:

- (A) Two (2) month's charges for a service which has a minimum payment period of one month; or
- (B) The charges that would apply for the minimum payment period for a service or facility which has a minimum payment period of more than one month; except that the deposit may include an additional amount in the event that a termination charge is applicable.

When a service is discontinued, the amount of a deposit, if any, will be applied to the Customer's account and any credit balance remaining will be refunded. Before the service is discontinued, Company may, at its option, return the deposit or credit it to the customer's account.

Deposits held will accrue interest at a rate no lower than that specified by the applicable regulatory commission.

Customers whom the Company believes present a credit risk may also be required, a any time, to provide other assurances of, or security for, the payment of the Company's charges for its services as the Company may deem necessary, including without limitation, advance payments for Service, third party guarantees or payments pledges or other grants of security interest in the Customers' assets, and similar arrangements. The required deposits or other security may be increased or decreased by the Company as it deems appropriate in the light of changing conditions.

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SECTION II - RULES AND REGULATIONS, (CONTINUED)

2.15 Taxes

- 2.15.1** All state and local taxes (i.e., sales tax, gross receipts tax, municipal utilities tax) are listed as separate line items on monthly bills to Customers and are not included in the quoted rates.

2.16 Right to Back bill for Improper Use of Company's Services

- 2.16.1** Any person or entity which uses, appropriates or secures the use of services from Company, whether directly or indirectly, in any unlawful manner or through the providing of any misleading or false information to Company and which use, appropriation, or securing of services is inconsistent with the stated uses and purposes of this tariff or any restrictions, conditions, and limitations stated herein, shall be liable for an amount equal to the accrued and unpaid regulated charges that would have been applicable to the use of Company's services actually made by Customer.

2.17

Late Payment

- 2.17.1** In addition, Company shall bill an amount equal to a late payment fee of 1.5 percent per month for the period(s) for which such regulated charges would have been payable, if a billing remains unpaid after twenty days of deposit of said billing in the U.S. Mail. Each Customer will be granted at least a one-time relief of late payment charges for each calendar year for the first time a late payment occurs. Customer will be notified that this relief has been applied immediately following same by first class mail or telephone.

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SECTION II - RULES AND REGULATIONS, (CONTINUED)

2.18 Returned Checks

- 2.18.1** If Company receives a check from a Customer in payment for regulated service rendered or for any other reason of indebtedness and which is returned from the bank due to insufficient or uncollected funds, closed account, apparent tampering, missing signature or endorsement, or for any other reason, Company shall apply a service charge after Customer has been forwarded a notice of returned item.
- 2.18.2** The returned check charge, as described in this tariff, shall be applied to Customer's monthly billing, in addition to any other regulated charges which may apply under this tariff.
- 2.18.3** Payment rendered by check, which is subsequently dishonored shall not constitute payment until such time as repayment is made by valid means.

2.19 Emergency Calls

- 2.19.1** All emergency calls will be handled by the company's underlying carrier(s).

2.20 Customer Service

- 2.20.1** In the event that the Customer is experiencing a service or billing problem, the Customer can contact the Company at the phone number located on the bill of the billing entity for resolution. The Customer can communicate with Excel's Customer Service Department in Dallas, Texas by dialing their toll free number, (800) 875-9235. Excel will make all reasonable attempts to resolve the problem. The Customer will receive a response within thirty days of receipt of complaint. If the Customer feels that the matter has not been adequately resolved, the Customer will be advised that further resolution may sought by contacting the Commission at:

Arizona Public Service Commission
1200 West Washington
Phoenix, Arizona 85007

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SECTION III - DESCRIPTION OF SERVICES

3.1 General Description of Service

- 3.1.1** Excel resells facilities-based interexchange (IXC) carrier services including, but not limited to, access, switching, transport, termination and other services for the direct transmission and reception of voice, data, and other types of communications.
- 3.1.2** Customer's monthly regulated charges for Company's service are based on the total connected time Customer actually uses the service subject to billing increments as set forth in this tariff and any additional charges which may apply.
- 3.1.3** Excel's services are offered to Customers on a monthly basis.
- 3.1.4** Excel's services are offered to Customers twenty-four hours a day.
- 3.1.5** All service shall remain in effect for a minimum of thirty days.
- 3.1.6** Excel may resell the services of other underlying carriers approved to provide such services by the Commission.
- 3.1.7** Customers may use accounting codes to identify the Customers or user groups on an account. The numerical composition of the codes shall be set by the Company to assure compatibility with the Company's accounting and billing systems and to avoid the duplication of codes.

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SECTION III - DESCRIPTION OF SERVICES (CONTINUED)

3.2 Calculation of Distance

3.2.1 Usage charges for all mileage sensitive products are based on the airline distance between rate centers associated with the originating and terminating points of the call.

3.2.2 The airline mileage between rate centers is determined by applying the formula below to the vertical and horizontal coordinates associated with the rate centers involved.

3.2.2.A FORMULA:
$$\sqrt{\frac{(V1 - V2)^2 + (H1 - H2)^2}{10}}$$

3.3 Minimum Call Completion

Customers can expect a call completion rate of 98% during peak use periods for all Feature Group D Equal Access 1+ and 0+ Services. The call completion rate is calculated as the number of calls completed (including calls completed to a busy line or to a line which remains unanswered by the called party) divided by the number of calls completed.

3.4 Rate Period Overlap

3.4.A For messages which overlap one or more rate periods the rate in effect at the time of call origination in the originating area applies to the entire duration of that call.

3.4.B Subject to the billing increments set forth in this tariff, plus any additional charges which may apply, long distance usage charges are based on the actual usage of Excel's service. Usage begins when the called party picks up the receiver. When the called party picks up timing is determined by hardware answer supervision. Chargeable time ends when either party "hangs up" thereby releasing the connection. Excel does not bill for uncompleted calls.

3.5 Service Area

The service area of Excel includes all Equal Access points in Arizona.

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SECTION IV - MAXIMUM RATES

4.1 ExcelPLUS Service

ExcelPLUS Service is a one-way, dial-out multi point service allowing the Customer to originate and terminate calls via local exchange carrier access facilities. Customers may access the ExcelPLUS Service only in Equal Access areas.

Rates:

EXCEL PLUS SERVICE MAXIMUM RATES						
Rate Mileage	DAY		EVENING		NIGHT/WEEKEND	
	<i>Initial Minute</i>	<i>Each Additional Minute</i>	<i>Initial Minute</i>	<i>Each Additional Minute</i>	<i>Initial Minute</i>	<i>Each Additional Minute</i>
0-55	\$0.5000	\$0.4000	\$03500	\$0.2500	\$0.3000	\$0.2000
56-124	\$0.5000	\$0.4000	\$03500	\$0.2500	\$0.3000	\$0.2000
125-292	\$0.5000	\$0.4000	\$03500	\$0.2500	\$0.3000	\$0.2000
Over 292	\$0.5000	\$0.4000	\$03500	\$0.2500	\$0.3000	\$0.2000

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SECTION IV - MAXIMUM RATES

4.1 ExcelPLUS Service - (Continued)

Billing Increments:

Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Discounts:

A 50% discount applies to charges incurred for direct dialed calls terminated at ExcelPLUS, ExcelPLUS II, Excel Dime Deal, Simply One and Premier PLUS II numbers (participating Excel Customers).

Service Hours:

TIME PERIODS	
DAY	Monday - Friday 7:00 a.m. to 5:59 p.m.
EVENING	Monday - Friday 6:00 p.m. to 10:59 p.m. Saturday and Sunday 5:00 p.m. to 10:59 p.m.
NIGHT/WEEKEND	Monday - Friday 11:00 p.m. to 6:59 a.m. Saturday 7:00 a.m. to 4:59 p.m. Saturday 11:00 p.m. to Sunday 4:59 p.m. Sunday 11:00 p.m. to Monday 6:59 a.m.
HOLIDAYS	Evening: 8:00 a.m. to 10:59 p.m. Night/Weekend: 11:00 p.m. to 7:59 a.m.

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SECTION IV - MAXIMUM RATES

4.2 ExcelPLUS II Service

ExcelPLUS II Service is a one-way, dial-out multi point service allowing the Customer to originate and terminate calls via local exchange carrier access facilities. Customers may access ExcelPLUS II Service only in Equal Access areas.

Rates:

EXCEL PLUS II SERVICE MAXIMUM RATES						
Rate Mileage	DAY		EVENING		NIGHT/WEEKEND	
	<i>Initial Minute</i>	<i>Each Additional Minute</i>	<i>Initial Minute</i>	<i>Each Additional Minute</i>	<i>Initial Minute</i>	<i>Each Additional Minute</i>
0 - 55	\$0.6500	\$0.4500	\$0.5000	\$0.3000	\$0.4000	\$0.2500
56 - 124	\$0.6500	\$0.4500	\$0.5000	\$0.3000	\$0.4000	\$0.2500
125 - 292	\$0.6500	\$0.4500	\$0.5000	\$0.3000	\$0.4000	\$0.2500
Over 292	\$0.6500	\$0.4500	\$0.5000	\$0.3000	\$0.4000	\$0.2500

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SECTION IV - MAXIMUM RATES

4.2 ExcelPLUS II Service - (Continued)

Billing Increments:

Each call completed will have an initial minimum and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Discounts:

A 50% discount applies to charges incurred for direct dialed calls terminated at ExcelPLUS, ExcelPLUS II, Simply One, Excel Dime Deal and Premier PLUS II numbers (participating Excel Customers). A 30% discount applies to charges incurred for direct dialed calls terminated at all other numbers.

Service Hours:

TIME PERIODS	
DAY	Monday - Friday 7:00 a.m. to 5:59 p.m.
EVENING	Monday - Friday 6:00 p.m. to 10:59 p.m. Saturday and Sunday 5:00 p.m. to 10:59 p.m.
NIGHT/WEEKEND	Monday - Friday 11:00 p.m. to 6:59 a.m. Saturday 7:00 a.m. to 4:59 p.m. Saturday 11:00 p.m. to Sunday 4:59 p.m. Sunday 11:00 p.m. to Monday 6:59 a.m.
HOLIDAYS	Evening: 8:00 a.m. to 10:59 p.m. Night/Weekend: 11:00 p.m. to 7:59 a.m.

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SECTION IV - MAXIMUM RATES

4.3 PremierPLUS II Service

PremierPLUS II Service is a one-way, dial-out multi point service allowing the Customer to originate and terminate calls via local exchange carrier access facilities. Customers may access PremierPLUS II only in Equal Access areas.

Rates:

PREMIERPLUS II SERVICE MAXIMUM RATES		
DAY	EVENING	NIGHT/WEEKEND
Per Minute	Per Minute	Per Minute
\$0.2350	\$0.2350	\$0.2350

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SECTION IV - MAXIMUM RATES

4.3 PremierPLUS II Service - (Continued)

Billing Increments:

Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using six second increments, rounded up to the next whole six second (1/10 on one minute increment) increment. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Discounts:

A 50% discount applies to charges incurred for direct dialed calls terminated at ExcelPLUS, ExcelPLUS II, Simply One, Excel Dime Deal and PremierPLUS II numbers (participating Excel Customers). A 30% discount applies to charges incurred for direct dialed calls terminated at all other numbers.

Service Hours:

TIME PERIODS			
DAY	EVENING	NIGHT/ WEEKEND	HOLIDAYS
Monday - Friday 8:00 a.m. to 4:59 p.m.	Monday - Friday 5:00 p.m. to 10:59 p.m.	Monday - Friday 11:00 p.m. to 7:59 a.m.	Evening 8:00 a.m. to 10:59 p.m.
	Saturday and Sunday 5:00 p.m. to 10:59 p.m.	Saturday and Sunday 8:00 a.m. to 4:59 p.m.	Night/Weekend 11:00 p.m. to 7:59 a.m.
		Saturday and Sunday 11:00 p.m. to 7:59 a.m.	

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SECTION IV - MAXIMUM RATES

4.4 PremierPLUS III Service

PremierPLUS III Service is a one-way, dial out multi point service allowing the Customer to originate and terminate calls via local exchange carrier access facilities.

Rates:

PREMIERPLUS III SERVICE MAXIMUM RATES
Per Minute
\$0.3000

Billing Increments:

Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using six second increments, rounded up to the next whole six second (1/10 on one minute increment) increment. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Service Hours:

Rates apply 24 hours a day, 7 days a week

PremierPLUS III Calling Card
Per Call Surcharge \$0.2500
Per Minute Rate \$0.2500

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SECTION IV - MAXIMUM RATES

4.5 Premier Dial One Service

Premier Dial One Service is a one way, dial out multi point service allowing the Customer to originate and terminate calls via local exchange carrier access facilities. Customers may subscribe to this service only in Equal Access areas.

Rates:

PREMIER DIAL ONE SERVICE MAXIMUM RATES
\$0.3000

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SECTION IV - MAXIMUM RATES

4.5 Premier Dial One Service - (Continued)

Billing Increments:

Each call completed will have an initial minimum of thirty seconds and any time beyond that minimum will be billed in addition using six second increments, rounded up to the next whole six second (1/10 of one minute) increment. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole sent.

Volume Discounts:

The following volume discounts apply where savings are directly proportional to usage.

VOLUME	% DISCOUNT
\$0-\$74.99	---
\$75.00-\$499.99	23%
\$500.00-\$1,999.99	23%
\$2000.00-\$4,999.99	23%
Over \$5,000.00	23%

Service Hours:

TIME PERIODS	
PEAK	OFF-PEAK
Monday- Friday 8:00 a.m. to 4:59 p.m.	Monday - Friday 5:00 p.m. to 7:59 a.m. Saturday, Sunday and Holidays All Day

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SECTION IV - MAXIMUM RATES

4.6 Excel Simply One Service

Excel Simply One Service is a one-way, dial-out multi point service designated for residential and small business customers. The service offers a simplified base rate and discounts are available to all users of the service. Total charges for a call depend upon the time of day a call is placed and the duration of the call.

Rates:

EXCEL SIMPLY ONE SERVICE MAXIMUM RATES	
PEAK	OFF-PEAK
Per Minute	Per Minute
\$0.2500	\$0.1500

Billing Increments:

Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using six second increments, rounded up to the next whole six second (1/10 on one minute increment) increment. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Service Hours:

TIME PERIODS	
PEAK	OFF-PEAK
Monday - Friday 7:00 a.m. to 6:59 p.m.	Monday - Friday 7:00 p.m. 6:59 a.m. Saturday, Sunday & Holidays All Day

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4.7 OPTION A (Excel Dime Deal Service)

OPTION A (Excel Dime Deal Service) is a one-way, dial-out multi point service designated for residential customers and small business customers. The service has a flat rate per minute structure for all time-of-day rate periods. Customers may subscribe to this service in Equal Access areas only. Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute.

Rates:

EXCEL DIME DEAL MAXIMUM RATE
Per Minute
\$0.1500

Billing Increments:

Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Service Hours:

Rates apply 24 hours a day, 7 days a week

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SECTION IV - MAXIMUM RATES

4.8 MY 800 Service

Excel's MY 800 Service is a one way, dial in service allowing the Customer to receive calls via local exchange carrier access facilities. MY 800 Service permits calls to a Customer's station in one location from stations in diverse geographical service areas, and in which the MY 800 Service Customer is billed for the calls rather than the call originators. Customers may use MY 800 Service only in Equal Access areas.

Rates:

MY 800 SERVICE MAXIMUM RATES	
DAY RATE PERIOD	EVENING, NIGHT/WEEKEND & HOLIDAY RATE PERIOD
Per Minute	Per Minute
\$0.1900	\$0.1900

Billing Increments:

Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Service Hours:

DAY	EVENING NIGHT/WEEKEND & HOLIDAYS
Monday - Friday 7:00 a.m. to 5:59 p.m.	Monday - Friday 6:00 p.m. to 6:59 a.m. Friday 6:00 p.m to Monday 6:59 a.m.

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SECTION IV - MAXIMUM RATES

4.9 Excel Premier 800 Service

Excel Premier 800 Service is a one way, dial in service allowing the Customer to receive calls via local exchange carrier access facilities. Excel Premier 800 Service permits calls to a Customer's call station in one location from stations in diverse geographical areas, and in which the Excel Premier 800 Service Customer is billed for the calls rather than the call originators. Customers may subscribe to this service in Equal Access areas only.

Rates:

PREMIER 800 SERVICE MAXIMUM RATES	
PEAK	OFF-PEAK
Per Minute	Per Minute
\$0.2500	\$0.2500

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SECTION IV - MAXIMUM RATES

4.9 Excel Premier 800 Service- (Continued)

Billing Increments:

Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Volume Discounts:

VOLUME AMOUNT	% DISCOUNT
\$0-\$99.99	---
\$100.00-\$499.99	23%
\$500.00-\$1,999.99	23%
Over \$2,000.00	23%

Service Hours:

TIME PERIODS	
PEAK	OFF-PEAK
Monday - Friday 8:00 a.m. to 4:59 p.m.	Monday - Friday 5:00 p.m. 7:59 a.m. Saturday, Sunday & Holidays All Day

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SECTION IV - MAXIMUM RATES

4.10 Excel Operator Services

The Company's Operator Services is available throughout the State of Arizona. Callers access the Company's Operator Services by dialing 0+ a 10 digit telephone number, 00 or a Company-provided access code or other Company-authorized access method plus the telephone number of the called station. Upon receipt of the call, the Company may verify the credit-worthiness of the designated billed party. When a payment method cannot be validated, or is unacceptable, callers may be required to select an alternative and acceptable means of payment. Total charges for use of this service include usage charges and an Operator Assistance Service Charge, as set forth below. An Operator Dialed Service Charge also applies to calls in which the caller has the capacity to dial the number, but has the operator dial instead. Usage charges are based upon the duration of a call, and are flat per minute based, 24 hours per day, 7 days per week, during all Time-of-Day Rate Periods. The Time-of-Day Rate Periods are defined as follows:

- Day Rates are applicable to calls placed Monday through Friday from 8:00 AM to, but not including, 5:00 PM.
- Evening Rates are applicable to calls placed Sunday through Friday from 5:00 PM to, but not including, 11:00 PM; and on Carrier Recognized Holidays, unless a lower rate would normally apply.
- Night/Weekend Rates are applicable to calls placed Sunday through Friday from 11:00 PM to, but not including, 8:00 AM the following day, and all day Saturday.

Chargeable time begins when the Company receives signaling to detect that the network connection between the calling station and the called station has been established. Chargeable time ends when either party "hangs up" thereby releasing the network connection. For collect calls, chargeable time begins when the called station accepts responsibility for payment of the charges associated with the call. All calls are measured and billed in one minute increments; fractional minutes of use are rounded up to the next full minute.

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SECTION IV - MAXIMUM RATES

4.10 Excel Operator Services - (Continued)

4.10.1 Operator Assistance Service Charges and Surcharge Descriptions:

A Service Charge is applicable to Customer Dialed (Automated) Calling Card Station, Operator Assisted Calling Card Station, Operator Station-to-Station (including Sent Paid, Sent Collect, Third Number Billed or Calling Card), Person-to-Person (including Sent Paid, Sent Collect, Third Number Billed or Calling Card) and for Busy Line Verifications and Busy Line Interruptions. These charge(s) are in addition to the initial period and additional period per minute usage charges applicable to each call. When a call is subject to more than one Service Charge, only the highest Service Charge applies, unless indicated otherwise herein. Operator Assistance Service Charges vary depending upon the billing option selected by the caller. The following call placement options are available:

- a. **Operator Station-to-Station** - refers to when an end user requests operator assistance in reaching a telephone number and is willing to talk to anyone who answers. The call may be billed as Sent Paid (calling party pays for the call), Sent Collect (called party pays for the call), or may be billed to a Third Party Number or Calling Card. Sent Collect and Third Number Billed calls may not be allowed in locations where the Company does not have billing arrangement availability. To activate Station-to-Station Operator Services, the caller's dialing sequence could be: 0+ a 10 digit telephone number, or 00 (only), or any other Company-provided access method, to get an operator directly to request that a Station-to-Station call be placed.
- b. **Person-to-Person** - refers to when an end user requests operator assistance in reaching a specific person, department, extension, office, etc. The operator dials the number and stays on the line until the requested party is reached and conversation begins. The call may be billed as Sent Paid (calling party pays for the call), Sent Collect (called party pays for the call), or may be billed to a Third Number or Calling Card. Sent Collect and Third Number Billed calls may not be allowed in locations where the Company does not have billing arrangement availability. To activate Person-to-Person Operator Services, the caller's dialing sequence could be: 0+ a 10 digit telephone number, or 00 (only), or any other Company-provided access method, to get an operator directly to request that a Person-to-Person call be placed.

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SECTION IV - MAXIMUM RATES

4.10 Excel Operator Services - (Continued)

4.10.2 Operator Assistance Service Charges and Surcharge Descriptions: (Continued)

- c. **Busy Line Verification** - refers to those instances where the Company will provide operator assistance to determine if there is conversation ongoing on a called station. A Service Charge is applied to all attempts to verify the condition of a customer line, busy talking, busy not talking (e.g., off hook), except attempts which are unsuccessful due to network equipment failure.
- d. **Busy Line Interruption** - refers to those instances where the Company operator will interrupt an ongoing conversation on a called station. A charge will apply each time the Company operator attempts the emergency interruption whether or not the interruption is successful. A Busy Line Verification must be made and its service charge applied before an Emergency Interruption can be attempted. Once an operator has verified the line, and the called party has agreed to accept the interruption, the Customer is provided the option of completing an operator assisted call to the called station without hanging up or originating a separate call. Customers may accept or refuse the operator's offer to complete the call. Calls completed with the operator's assistance will be charged an additional Service Charge under Station-to-Station or Person-to-Person, as applicable. If the operator dials or completes the call to the verified telephone number for the Customer, the Operator Dialed Surcharge will also apply.
- e. **Operator Dialed Surcharge** - will apply to Station-to-Station and Person-to-Person calls when the Customer has the ability to dial all the digits necessary for call completion but dials instead "0", "00" or another Company-provided access code or other Company-authorized access method to reach a Company operator to have the operator place the call. This surcharge will be incurred by the Customer in addition to the applicable Service Charge. However, the surcharge will not apply to: (1) calls which cannot be completed by the Customer due to equipment failure or trouble on the Company's network; (2) calls placed by parties identified as handicapped and who cannot complete the calls due to the handicap; and (3) calls made on a 0- basis in which a company operator places a call for a calling party after a Busy Line Verification and Busy Line Interruption process has been successfully completed.

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SECTION IV - MAXIMUM RATES

4.10 Excel Operator Services - (Continued)

4.10.3 Operator Assistance Service Usage Rates and Charges:

The flat per minute rates listed below apply 24 hours a day, 7 days per week, for Operator-Assisted Station-to-Station and Person-to-Person call types. All calls are measured and billed in one minute increments; fractional minutes of use are rounded up to the next full minute.

a. Maximum Per Minute Usage Rates:

MILEAGE	DAY RATE PERIOD		EVENING RATE PERIOD		NIGHT/WEEKEND RATE PERIOD	
	<i>1st Minute</i>	<i>Each Add'l</i>	<i>1st Minute</i>	<i>Each Add'l</i>	<i>1st Minute</i>	<i>Each Add'l</i>
All	\$0.5500	\$0.5500	\$0.5500	\$0.5500	\$0.5500	\$0.5500

b. Maximum Operator Assistance Service Charges and Surcharges:

The following Operator Assistance Service Charges and Surcharges are applicable to the specified operator assisted calls and are in addition to the per minute usage charges set forth above.

Call Placement Type:	Per Call Service Charge:
Operator Station-to-Station Sent Paid	\$3.45
Operator Station-to-Station Sent Collect	\$3.45
Operator Station-to-Station Third Number Billed	\$3.45
Operator Station-to-Station Calling Card	\$3.45
Person-to-Person Sent Paid	\$9.95
Person-to-Person Sent Collect	\$9.95
Person-to-Person Third Number Billed	\$9.95
Person-to-Person Calling Card	\$9.95
Busy Line Verification	\$6.50
Busy Line Interruption	\$6.50
Operator Dialed Surcharge	\$1.50

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4.11 Excel Calling Card Service

Excel's Calling Card Service provides for an arrangement to complete toll calls between two points when the Customer is away from his or her home or place of business. The Customer will be assigned a unique travel authorization code(s) that authorizes the use of the Excel Calling Card Service by that Customer. Customers will receive a calling card for use in making telephone calls. The appropriate designated access number sequence specified on the Customer's Excel Calling Card must be dialed.

Rates:

EXCEL CALLING CARD SERVICE MAXIMUM RATES	
Initial Minute	Each Additional Minute
\$0.8900	\$0.3100

Excel Calling Card Service - (Continued)

Billing Increments:

Initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Discounts:

Customers subscribing to Excel PLUS, Excel PLUS II, Premier PLUS II, Excel Simply One, and Excel Dime Deal (OPTION A) will receive a 50% discount on charges incurred for all direct dialed calling card calls (after the first minute) terminated at ExcelPLUS, ExcelPLUS II, Simply One, Excel Dime Deal and Premier PLUS II numbers (participating Excel Customers). A discount does not apply to calling card calls terminated at all other numbers.

Service Hours:

Rates apply 24 hours a day, 7 days a week

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SECTION IV - MAXIMUM RATES

4.12 National Directory Assistance Service

National Directory Assistance Service, as offered by the Company, allows Customers to request information from Directory Assistance records. Directory Assistance charges apply to all requests. Customers are charged when they obtain the requested information or when the information is unlisted, non-published, or no record can be found. In addition to the Directory Assistance charge, Customers may be charged an appropriate Operator Service Charges and Surcharges as specified elsewhere in this tariff. Charges for Directory Assistance may be billed as Sent Paid, Third Number Billed or billed to a Calling Card. Person-to-Person or Collect Calls for Directory Assistance are not permitted. A separate Operator Assistance Service Charge applies as set forth elsewhere in this tariff to Directory Assistance calls when these calls are made with the assistance of a Company operator or billed to a Calling Card.

Operator Assisted/Directory Assistance Call Completion refers to National Directory Assistance calls wherein the Company operator completes the call to the caller's final desired destination number.

Customers may access this service by dialing the area code (NPA) for the telephone number desired plus 555-1212, or by using a Company-provided access code, or other Company-authorized access method. Up to two requests for listings within the area code dialed may be made on each call to Directory Assistance.

Directory Assistance calls will not be included in the calculation of usage discounts. A credit allowance for Directory Assistance will be provided if subscriber: experiences poor transmission quality; is cut off; receives an incorrect telephone number; or misdials the intended Directory Assistance number.

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SECTION IV - MAXIMUM RATES

4.12 National Directory Assistance Service - (Continued)

The following charges apply to the Company's National Directory Assistance Service:

- a. For Customers who access the Company's National Directory Assistance Service by dialing Area Code (NPA) + 555-1212, or by using an alternative Company-provided access code, or other Company-authorized access method, an undiscountable charge of \$1.35 per call will be applied to each call requesting Directory Assistance. Automated Call Completion from Directory Assistance is available at no additional charge. If calls are completed on behalf of the Customer, a per minute for originating direct dial usage for the Company service for which they are presubscribed or non-presubscribed will be charged.

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SECTION IV - MAXIMUM RATES

4.13 Prepaid Calling Card Service

The Prepaid Calling Card Service enables callers to place calls using Excel's service on a prepaid basis. Customers subscribe to the service by purchasing a prepaid card from an authorized Excel representative. Access to the service is available seven (7) days per week, twenty four (24) hours per day. Charges for telephone calls will be deducted from the Customer's prepaid account balance. Prepaid calling cards will be valid until the Customer's prepaid balance is depleted. Customers access the Company's service using a 1-800 access code arrangement. A voice prompt will instruct the caller to dial the called telephone number and authorization code displayed on the card.

Prepaid Calling Card Service is provided to the holder of the card and is available in all locations throughout the State, subject to technical limitations. Customers must maintain a sufficient balance to cover the cost of the call in process. Failure of the card holder to maintain a positive balance may result in the disconnection of a call in process; an announcement will advise the caller one minute prior to the disconnection of the call. Under some arrangements, callers may utilize a commercial credit card to increase a prepaid balance or renew the prepaid card.

Rates and charges vary depending upon the arrangement selected by the Customer. Call duration will be measured in whole minute increments, unless otherwise specified. Credit for interruptions are limited to one minute; no other refunds, credit, or other remittances shall be permitted. All applicable state and federal taxes and fees, including, but not limited to, sales tax, gross receipts tax, municipal tax, and other similar assessments are the responsibility of the card holder. Such charges may be deducted from the Customer's prepaid calling card balance. Prepaid calling cards are provided at the unit prices and fees set forth herein. Under some arrangements, a separate fee or unit value may also be imposed by the distributor of the card.

Rates:

Per Minute
\$0.2900

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SECTION IV - MAXIMUM RATES

4.13 Prepaid Calling Card Service - (Continued)

Billing Increments:

Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Service Hours:

Rates apply 24 hours a day, 7 days a week

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4.14 Excel Simply 7 Service

Excel Simply 7 Service is a one way, dial-out multi point service designated for residential and small business customers and is limited to three (3) telephone numbers per customer account. The service has a flat rate per minute structure for all time-of-day rate periods. Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute.

4.14.1 Rates

MAXIMUM PER MINUTE RATE
\$0.1000

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SECTION IV - MAXIMUM RATES

4.15 1-800 PHONEME Service

1-800 PHONEME Service refers to collect call completion with the assistance of an operator after the caller places a call by dialing an access number provided by the Company. Calls will be billed on a flat per minute basis with calls rated according to the time-of-day calling period of the individual placing the call. Additionally, an applicable per call service charge will apply as set forth below. This service allows the customer to originate calls from any point served by the Company.

4.15.1 Rates:

MAXIMUM PER MINUTE RATES		
PEAK	OFF PEAK	WEEKEND
\$0.7500	\$0.7500	\$0.7500

4.15.2 Service Charges:

Per Call Charge

Station-to-Station	\$6.00
Person-to-Person	\$7.00

4.15.3 Service Hours:

Peak:	7:00am to 6:59pm, Monday through Friday
OffPeak:	7:00pm to 6:59am, Monday through Sunday
Weekend:	7:00am to 6.59pm, Saturday and Sunday

4.15.4 Billing Increments:

Each call completed will have an initial minimum of one minute increment and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

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4.16 Excel Prepaid Calling Card Service Offering II

The Excel Prepaid Calling Card Service Offering II will allow a customer to pay a fixed dollar amount in advance for long distance calling. The customer will use the toll free number on the card for access from touch-tone telephones within the United States. For call completion, the customer will follow recorded prompts.

A flat per minute rate will be charged; there are no off-peak rates. The per-minute cost of a call will be deducted on a real-time basis as the card is used until the full amount of the card is exhausted. The customer will be notified in advance of the exhaustion of the card. The rates for this Excel Prepaid Calling Card Service are set forth below. The rates paid by the customer will be those rates indicated on the packaging at the time of purchase of the card. An expiration date will be printed on the card. The following types of calls may not be completed with the Excel Prepaid Calling Card Service:

Calls to 500, 700, 900 and toll free numbers;
Calls to Directory Assistance;
Operator assistance calls; and
Calls requiring time and/or charges.

A Customer's call will be interrupted with an announcement when the balance is about to be depleted. Such announcement will occur one minute before the balance will be depleted, based on the terminating location of the call. Calls in progress will be terminated by the Company if the balance on the Excel Prepaid Calling Card is insufficient to continue the call.

This Excel Prepaid Calling Card Service offering will be available in various denominations of units, minutes or dollars; sales or excise taxes are due at the point of purchase. Rates apply twenty-four hours per day, seven days per week. Cards are not rechargeable. The following Per Minute Rate applies for calls placed from locations between and among domestic points within the United States. All calls are rounded to the next higher full minute.

The per minute usage rate for this prepaid card is: \$.2500 per minute.

An additional charge for calls placed from pay phones may also apply. The charge is \$.2500 and applies on a per call basis.

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SECTION IV - MAXIMUM RATES

4.17 Employee Long Distance Service Program

Employee Long Distance Service Program is a one-way dial-out multi point residential presubscribed service designated for employees of Excel Telecommunications, Inc., its parent company, affiliates and subsidiaries. This service has a flat per minute rate structure for all time-of-day rate periods. Each call completed will be billed in initial and additional increments of one minute, rounded up to the next whole minute.

4.17.1 Rates:

MAXIMUM PER MINUTE RATE
\$0.3500

4.17.2 Calling Card Per Minute Rates: (Maximum)

Employees subscribing to this service will be provided with a calling card that allows them to make long distance calls while away from home. The following per minute rates apply for all calling card calls placed within the State:

Initial Minute	Each Additional Minute
\$0.89	\$0.25

4.17.3 Calling Card Billing Increments:

Calls will be billed at an initial minimum of six (6) seconds, and anytime beyond that minimum will be billed in addition using six (6) increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

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SECTION IV - MAXIMUM RATES

4.18 EXCEL M-PLANS

4.18.1 EXCEL M-PLANS are one-way, dial-out multi point services designated for presubscribed Customers that are to be migrated from Telco Holdings, Inc. d/b/a Dial & Save and Long Distance Wholesale Club to the network of Excel Telecommunications, Inc. These services are grand fathered and will not be available to new customers.

The Excel M-Plan services have a flat per minute rate structure for all time-of-day rate periods. In addition, some of the plans have a monthly recurring charge. Although some of the intrastate Excel M-Plans set forth below are the same for intrastate calls, the corresponding interstate Excel M-Plan(s) rates vary. All examples of applicable intrastate Excel M-Plans are shown so that a cross-reference can easily be made when referring to Excel's F.C.C. Tariff No. 5.

Each call completed pursuant to these plans will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. Calling Card Service is also available to Customers presubscribed to these plans as set forth below.

4.18.2 Excel M-Plan Rates:

PLAN NAME	PER MINUTE RATE	MONTHLY RECURRING SERVICE CHARGE
M1	\$0.1500	\$6.00
M2	\$0.1000	\$6.00
M3	\$0.0900	\$6.00
M4	\$0.0900	\$6.00
M5	\$0.1500	\$6.00
M6	\$0.0900	\$6.00
M7	\$0.0900	\$6.00
M8	\$0.0900	\$6.00
M9	\$0.0700	\$6.00

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SECTION IV - MAXIMUM RATES

4.18 EXCEL M-PLANS - (Continued)

4.18.3 Excel M-Plan Calling Card Service provides for an arrangement to complete toll calls between two points when the Customer is away from his or her home or place of business. The Customer will be assigned a unique travel authorization code(s) that authorizes the use of the Excel M-Plan Calling Card Service by that Customer.

4.18.4 Excel M-Plan Calling Card Rates: (Maximum)

Initial Minute	Each Additional Minute
\$0.8900	\$0.3100

4.18.5 Excel M-Plan Calling Card Billing Increments: Initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

4.18.6 Excel M-Plan Service Hours:

Rates apply 24 hours a day, 7 days a week

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SECTION IV - MAXIMUM RATES

4.19 Excel Prime Business Select 3 Service

4.19.1 Excel Prime Business Select 3 Service is a combined inbound, outbound and calling card service offered to business Customers. Customers are billed at per minute rates based on Combined Monthly Usage volumes, and discounted rates are applied based upon the Customer's billed monthly usage. Combined Monthly Usage is defined as the Customer's billed usage for a monthly billing period for the combined total of interstate, intrastate, international and service calling card usage for a month's billing period. Directory Assistance charges, monthly recurring charges, service fees, surcharges and taxes are not included in the determination of the Customer's Combined Monthly Usage.

Customers to this service offering commit to Combined Monthly Usage of \$100.00, hereinafter referred to as the \$100.00 Monthly Minimum Commitment. In the event Customer does not meet the \$100.00 Monthly Minimum Commitment during any monthly invoice period, the Customer will be responsible for paying a deficiency charge for that invoice period. The Customer's deficiency charge will be the difference between the Customer's \$100.00 Monthly Minimum Commitment and the Customer's actual Combined Monthly Usage.

This service is offered on a month-to-month basis.

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SECTION IV - MAXIMUM RATES

4.19 Excel Prime Business Select 3 Service - (Continued)

4.19.2 Usage Rates:

COMBINED MONTHLY USAGE COMMITMENT	PER MINUTE RATES
\$0 - \$99.99	\$0.2500
\$100 - \$199.99	\$0.2500
\$200 - \$499.99	\$0.2500
\$500 - \$999.99	\$0.2500
Over \$1000	\$0.2500

Excel Prime Business Select 3 Calling Card Usage Rates:

Per call surcharge: \$0.7000
Per minute rates: \$0.7000

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SECTION IV - MAXIMUM RATES

4.19 Excel Prime Business Select 3 Service - (Continued)

4.19.2 Usage Rates: (Continued)

Monthly Recurring Service Charges and Fees:

Inbound Service Charge	\$5.00 per 800/888#, per month
Directory Assistance Service:	\$1.25 per call
Optional Management Invoice Reports	\$5.00 per report, per month
Accounting Codes (Non-Verified Package)	\$10.00 per package, per month
Accounting Codes (Verified Package)	\$20.00 per package, per month

Billing Increments:

Excel Prime Business Select Service 3:

Each call completed will have an initial minimum of eighteen (18) seconds and any time beyond that minimum will be billed in addition using six (6) second increments, rounded up to the next whole six second (1/10 of one minute) increment. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Excel Prime Business Select 3 Calling Card:

Each calling card call completed will have an initial minimum of thirty (30) seconds and any time beyond that minimum will be billed in addition using six (6) second increments, rounded up to the next whole six second (1/10 of one minute) increment. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Service Hours:

Rates apply 24 hours a day, 7 days a week

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SECTION IV - MAXIMUM RATES

4.20 Excel Prime Business Select 4 Service

4.20.1 Excel Prime Business Select 4 Service is a combined inbound, outbound and calling card service offered to business Customers. Customers are billed at per minute rates based on Combined Monthly Usage volumes, and discounted rates are applied based upon the Customer's billed monthly usage. Combined Monthly Usage is defined as the Customer's billed usage for a monthly billing period for the combined total of interstate, intrastate, international and service calling card usage for a month billing period. Directory Assistance charges, monthly recurring charges, service fees, surcharges and taxes are not included in the determination of the Customer's Combined Monthly Usage.

Customers to this service offering commit to Combined Monthly Usage of \$100.00, hereinafter referred to as the \$100.00 Monthly Minimum Commitment. In the event Customer does not meet the \$100.00 Monthly Minimum Commitment during any monthly invoice period, the Customer will be responsible for paying a deficiency charge for that invoice period. The Customer's deficiency charge will be the difference between the Customer's \$100.00 Monthly Minimum Commitment and the Customer's actual Combined Monthly Usage.

Customers subscribing to this service must commit to a term of 12 months. A service term begins on the first day of the month following service enrollment. When the Customer's 12-month service term expires, the Customer's service will automatically renew for another 12-month period, unless the Company receives in writing a notice of non-renewal during the period between 60 and 30 days prior to the end of the Customer's 12-month term period.

In the event a Customer terminates service with the Company prior to the end of the 12-month Term Commitment Period, or in the event that the Company terminates service based on the Customer's default, the Customer will be responsible for paying a Termination Charge equal to the Customer's \$100.00 Monthly Minimum Commitment, multiplied by the number of months remaining in the Customer's agreed 12-month Term Commitment period.

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SECTION IV - MAXIMUM RATES

4.20 Excel Prime Business Select 4 Service - (Continued)

4.20.2 Usage Rates:

COMBINED MONTHLY USAGE	PER MINUTE RATES
\$0 - \$99.99	\$0.2500
\$100 - \$199.99	\$0.2500
\$200 - \$499.99	\$0.2500
\$500 - \$999.99	\$0.2500
Over \$1000	\$0.2500

Excel Prime Business Select 4 Calling Card Usage Rates:

Per call surcharge: \$0.7000
Per minute rates: \$0.7000

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SECTION IV - MAXIMUM RATES

4.20 Excel Prime Business Select 4 Service - (Continued)

4.20.2 Usage Rates: (Continued)

Monthly Recurring Service Charges and Fees:

Inbound Service Charge	\$5.00 per 800/888#, per month
Directory Assistance Service:	\$1.25 per call
Optional Management Invoice Reports	\$5.00 per report, per month
Accounting Codes (Non-Verified Package)	\$10.00 per package, per month
Accounting Codes (Verified Package)	\$20.00 per package, per month

Billing Increments:

Excel Prime Business Select Service 4:

Each call completed will have an initial minimum of eighteen (18) seconds and any time beyond that minimum will be billed in addition using six (6) second increments, rounded up to the next whole six second (1/10 of one minute) increment. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Excel Prime Business Select 4 Calling Card:

Each calling card call completed will have an initial minimum of thirty (30) seconds and any time beyond that minimum will be billed in addition using six (6) second increments, rounded up to the next whole six second (1/10 of one minute) increment. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Service Hours:

Rates apply 24 hours a day, 7 days a week

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SECTION IV - MAXIMUM RATES

4.21 Non-Recurring and Other Charges

Returned Check Charge	\$15.00 or 5%, whichever is greater, per incident.
Reconnection Charge	\$25.00
Late Payment Charge	1.5% per month, unless a lower rate is prescribed by law.
Accounting Code Charge	\$10.00

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SECTION IV - MAXIMUM RATES

4.22 EXCEL THREE-CENT PLAN PROMOTION

Beginning October 15, 1999 and ending April 15, 2000, Excel will provide the promotional rates specified below for its Three-Cent Plan to Customers who have selected Excel as their Primary Interexchange Carrier. Customers must enroll in this offer no later than April 15, 2000 or by completing and returning an enrollment form provided by Excel, or by calling an Excel designated 800/8XX number.

Excel domestic intrastate dial station calls are eligible for the plan rates specified below. The duration of a call, which involves a fractional part of a minute, will be rounded up to the next higher full minute. The monthly recurring charge set forth below applies whether or not the Customer makes any calls. When the billing date does not coincide with the date that this plan is started, changed, or discontinued, the monthly recurring charge will be adjusted to reflect the fractional part of the month service is provided. For billing purposes, each month is considered to have 30 days.

The Customer upon written or verbal notice to Excel may discontinue enrollment in this plan. In addition, Excel will discontinue a Customer's subscription to the plan when Excel is notified that the Customer has changed their primary interexchange carrier to a carrier other than Excel after the Customer subscribed to this plan. Discontinuance will be effective as of the date the Customer changed their primary interexchange carrier. Usage from 900 Services, 800/8XX Service Plans, calls to Directory Assistance, Calling Card Calls, and Operator Handled calls are excluded from this plan.

4.22.1 Per Minute Rates:

TIME-OF-DAY RATE PERIOD		MAXIMUM PER MINUTE RATE
Monday - Friday, Saturday & Sunday, Including Company-recognized Holidays	OFF-PEAK 7:00 p.m - 6:59 a.m.	\$0.2500
Monday - Friday, Saturday & Sunday, Including Company-recognized Holidays	PEAK 7:00 a.m. - 6:59 p.m.	\$0.2500

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SECTION IV - MAXIMUM RATES

4.23 Excel Prime Business Flat Rate Service

4.23.1 Excel Prime Business Flat Rate Service is a dial-in, dial-out and calling card switched multi-point service designated for business customers. This service has a flat per minute rate structure for all time-of-day rate periods and allows the Customer to originate and terminate calls via local exchange carrier access facilities. There is no Monthly Usage Commitment Level required; however, in the event a Customer's monthly usage exceeds \$100.00 in any given 30-day invoice period, the monthly recurring account charge of \$15.00 will be waived for that given invoice period.

Rates (Inbound and Outbound):

Excel Prime Business Flat Rate Service
\$0.2500 Per Minute

Monthly Recurring Account Charge: \$15.00

Monthly Recurring Service Charge: \$5.00/per 800/8XX number

Billing Increments:

Each Inbound and outbound call completed will have an initial minimum of eighteen (18) seconds and any time beyond that minimum will be billed in addition using six (6) second increments, rounded up to the next whole six second (1/10 on one minute increment) increment. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Service Hours:

Rates apply 24 hours a day, 7 days a week

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SECTION IV - MAXIMUM RATES

4.23 Excel Prime Business Flat Rate Service - (Continued)

4.23.2 Excel Prime Business Flat Rate Calling Card Rates

Per Call Surcharge: \$0.7500

Per Minute Rate: \$0.7500

Billing Increments:

Each calling card call completed will have an initial minimum of thirty (30) seconds and any time beyond that minimum will be billed in addition using six (6) second increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Directory Assistance Per Call Charge: \$5.00

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SECTION IV - MAXIMUM RATES

4.25 OPTION B SERVICE

4.25.1 **OPTION B SERVICE:** is a one-way, dial-out multi point service designated for residential and small business customers. The service has a flat rate per minute structure for all time-of-day rate periods. Customers may subscribe to this service in Equal Access areas only.

Rate

OPTION B SERVICE
\$0.1500 Per Minute

Monthly Recurring Charge:

Customers will pay a monthly recurring charge as described in Excel's F.C.C. Tariff No. 5. The monthly recurring charge applies whether or not the Customer makes any calls.

Billing Increments:

Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Service Hours:

Rates apply 24 hours a day, 7 days a week.

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SECTION V - PROMOTIONAL OFFERINGS

5. EXCEL THREE-CENT PLAN PROMOTION

Beginning October 15, 1999 and ending April 15, 2000, Excel will provide the promotional rates specified below for its Three-Cent Plan to Customers who have selected Excel as their Primary Interexchange Carrier. Customers must enroll in this offer no later than April 15, 2000 or by completing and returning an enrollment form provided by Excel, or by calling an Excel designated 800/8XX number.

Excel domestic intrastate dial station calls are eligible for the plan rates specified below. The duration of a call, which involves a fractional part of a minute, will be rounded up to the next higher full minute. The monthly recurring charge set forth below applies whether or not the Customer makes any calls. When the billing date does not coincide with the date that this plan is started, changed, or discontinued, the monthly recurring charge will be adjusted to reflect the fractional part of the month service is provided. For billing purposes, each month is considered to have 30 days.

The Customer upon written or verbal notice to Excel may discontinue enrollment in this plan. In addition, Excel will discontinue a Customer's subscription to the plan when Excel is notified that the Customer has changed their primary interexchange carrier to a carrier other than Excel after the Customer subscribed to this plan. Discontinuance will be effective as of the date the Customer changed their primary interexchange carrier. Usage from 900 Services, 800/8XX Service Plans, calls to Directory Assistance, Calling Card Calls, and Operator Handled calls are excluded from this plan.

5.1 Per Minute Rates:

TIME-OF-DAY RATE PERIOD		MAXIMUM PER MINUTE RATE
Monday - Friday, Saturday & Sunday, Including Company-recognized Holidays	OFF-PEAK 7:00 p.m - 6:59 a.m.	\$0.1600
Monday - Friday, Saturday & Sunday, Including Company-recognized Holidays	PEAK 7:00 a.m. - 6:59 p.m.	\$0.1600

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CURRENT PRICE LIST

1. **ExcelPLUS Service**

ExcelPLUS Service is a one-way, dial-out multi point service allowing the Customer to originate and terminate calls via local exchange carrier access facilities. Customers may access the ExcelPLUS Service only in Equal Access areas.

Rates:

EXCEL PLUS SERVICE CURRENT RATES						
Rate Mileage	DAY		EVENING		NIGHT/WEEKEND	
	<i>Initial Minute</i>	<i>Each Additional Minute</i>	<i>Initial Minute</i>	<i>Each Additional Minute</i>	<i>Initial Minute</i>	<i>Each Additional Minute</i>
0-55	\$0.4025	\$0.2300	\$0.2534	\$0.1464	\$0.2049	\$0.1149
56-124	\$0.4715	\$0.2875	\$0.2904	\$0.1754	\$0.2399	\$0.1449
125-292	\$0.4830	\$0.3105	\$0.3049	\$0.1949	\$0.2449	\$0.1599
Over 292	\$0.4945	\$0.3450	\$0.3279	\$0.2079	\$0.2699	\$0.1699

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CURRENT PRICE LIST

1. ExcelPLUS Service - (Continued)

Billing Increments:

Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Discounts:

A 50% discount applies to charges incurred for direct dialed calls terminated at ExcelPLUS, ExcelPLUS II, Excel Dime Deal, Simply One and Premier PLUS II numbers (participating Excel Customers).

Service Hours:

TIME PERIODS	
DAY	Monday - Friday 7:00 a.m. to 5:59 p.m.
EVENING	Monday - Friday 6:00 p.m. to 10:59 p.m. Saturday and Sunday 5:00 p.m. to 10:59 p.m.
NIGHT/WEEKEND	Monday - Friday 11:00 p.m. to 6:59 a.m. Saturday 7:00 a.m. to 4:59 p.m. Saturday 11:00 p.m. to Sunday 4:59 p.m. Sunday 11:00 p.m. to Monday 6:59 a.m.
HOLIDAYS	Evening: 8:00 a.m. to 10:59 p.m. Night/Weekend: 11:00 p.m. to 7:59 a.m.

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CURRENT PRICE LIST

2. ExcelPLUS II Service

ExcelPLUS II Service is a one-way, dial-out multi point service allowing the Customer to originate and terminate calls via local exchange carrier access facilities. Customers may access ExcelPLUS II Service only in Equal Access areas.

Rates:

EXCEL PLUS II SERVICE						
Rate Mileage	DAY		EVENING		NIGHT/WEEKEND	
	<i>Initial Minute</i>	<i>Each Additional Minute</i>	<i>Initial Minute</i>	<i>Each Additional Minute</i>	<i>Initial Minute</i>	<i>Each Additional Minute</i>
0 - 55	\$0.4964	\$0.2821	\$0.3443	\$0.1914	\$0.2750	\$0.1464
56 - 124	\$0.5821	\$0.3536	\$0.3971	\$0.2329	\$0.3250	\$0.1893
125 - 292	\$0.5964	\$0.3821	\$0.4179	\$0.2607	\$0.3321	\$0.2107
Over 292	\$0.6107	\$0.4250	\$0.4507	\$0.2793	\$0.3679	\$0.2250

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CURRENT PRICE LIST

2. ExcelPLUS II Service - (Continued)

Billing Increments:

Each call completed will have an initial minimum and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Discounts:

A 50% discount applies to charges incurred for direct dialed calls terminated at ExcelPLUS, ExcelPLUS II, Simply One, Excel Dime Deal and Premier PLUS II numbers (participating Excel Customers). A 30% discount applies to charges incurred for direct dialed calls terminated at all other numbers.

Service Hours:

TIME PERIODS	
DAY	Monday - Friday 7:00 a.m. to 5:59 p.m.
EVENING	Monday - Friday 6:00 p.m. to 10:59 p.m. Saturday and Sunday 5:00 p.m. to 10:59 p.m.
NIGHT/WEEKEND	Monday - Friday 11:00 p.m. to 6:59 a.m. Saturday 7:00 a.m. to 4:59 p.m. Saturday 11:00 p.m. to Sunday 4:59 p.m. Sunday 11:00 p.m. to Monday 6:59 a.m.
HOLIDAYS	Evening: 8:00 a.m. to 10:59 p.m. Night/Weekend: 11:00 p.m. to 7:59 a.m.

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CURRENT PRICE LIST

3. PremierPLUS II Service

PremierPLUS II Service is a one-way, dial-out multi point service allowing the Customer to originate and terminate calls via local exchange carrier access facilities. Customers may access PremierPLUS II only in Equal Access areas.

Rates:

PremierPLUS II Service		
DAY	EVENING	NIGHT/WEEKEND
Per Minute	Per Minute	Per Minute
\$0.2150	\$0.1800	\$0.1650

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CURRENT PRICE LIST

3. PremierPLUS II Service - (Continued)

Billing Increments:

Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using six second increments, rounded up to the next whole six second (1/10 on one minute increment) increment. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Discounts:

A 50% discount applies to charges incurred for direct dialed calls terminated at ExcelPLUS, ExcelPLUS II, Simply One, Excel Dime Deal and PremierPLUS II numbers (participating Excel Customers). A 30% discount applies to charges incurred for direct dialed calls terminated at all other numbers.

Service Hours:

TIME PERIODS			
DAY	EVENING	NIGHT/ WEEKEND	HOLIDAYS
Monday - Friday 8:00 a.m. to 4:59 p.m.	Monday - Friday 5:00 p.m. to 10:59 p.m.	Monday - Friday 11:00 p.m. to 7:59 a.m.	Evening 8:00 a.m. to 10:59 p.m.
	Saturday and Sunday 5:00 p.m. to 10:59 p.m.	Saturday and Sunday 8:00 a.m. to 4:59 p.m.	Night/Weekend 11:00 p.m. to 7:59 a.m.
		Saturday and Sunday 11:00 p.m. to 7:59 a.m.	

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CURRENT PRICE LIST

4. PremierPLUS III Service

PremierPLUS III Service is a one-way, dial out multi point service allowing the Customer to originate and terminate calls via local exchange carrier access facilities.

Rates:

PremierPLUS III Service
Per Minute
\$0.1500

Billing Increments:

Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using six second increments, rounded up to the next whole six second (1/10 on one minute increment) increment. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Service Hours:

Rates apply 24 hours a day, 7 days a week

PremierPLUS III Calling Card
Per Call Surcharge \$0.2500
Per Minute Rate \$0.2500

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CURRENT PRICE LIST

5. Premier Dial One Service

Premier Dial One Service is a one way, dial out multi point service allowing the Customer to originate and terminate calls via local exchange carrier access facilities. Customers may subscribe to this service only in Equal Access areas.

Rates:

Premier Dial One Service
\$0.1950

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CURRENT PRICE LIST

5. Premier Dial One Service - (Continued)

Billing Increments:

Each call completed will have an initial minimum of thirty seconds and any time beyond that minimum will be billed in addition using six second increments, rounded up to the next whole six second (1/10 of one minute) increment. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole sent.

Volume Discounts:

The following volume discounts apply where savings are directly proportional to usage.

VOLUME	% DISCOUNT
\$0-\$74.99	---
\$75.00-\$499.99	23 %
\$500.00-\$1,999.99	23 %
\$2000.00-\$4,999.99	23 %
Over \$5,000.00	23 %

Service Hours:

TIME PERIODS	
PEAK	OFF-PEAK
Monday- Friday 8:00 a.m. to 4:59 p.m.	Monday - Friday 5:00 p.m. to 7:59 a.m. Saturday, Sunday and Holidays All Day

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6. Excel Simply One Service

Excel Simply One Service is a one-way, dial-out multi point service designated for residential and small business customers. The service offers a simplified base rate and discounts are available to all users of the service. Total charges for a call depend upon the time of day a call is placed and the duration of the call.

Rates:

Excel Simply One Service	
PEAK	OFF-PEAK
Per Minute	Per Minute
\$0.2500	\$0.1500

Billing Increments:

Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using six second increments, rounded up to the next whole six second (1/10 on one minute increment) increment. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Service Hours:

TIME PERIODS	
PEAK	OFF-PEAK
Monday - Friday 7:00 a.m. to 6:59 p.m.	Monday - Friday 7:00 p.m. 6:59 a.m. Saturday, Sunday & Holidays All Day

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7. OPTION A (Excel Dime Deal Service)

OPTION A (Excel Dime Deal Service) is a one-way, dial-out multi point service designated for residential customers and small business customers. The service has a flat rate per minute structure for all time-of-day rate periods. Customers may subscribe to this service in Equal Access areas only. Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute.

Rates:

Excel Dime Deal
Per Minute
\$0.1500

Billing Increments:

Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Service Hours:

Rates apply 24 hours a day, 7 days a week

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8. MY 800 Service

Excel's MY 800 Service is a one way, dial in service allowing the Customer to receive calls via local exchange carrier access facilities. MY 800 Service permits calls to a Customer's station in one location from stations in diverse geographical service areas, and in which the MY 800 Service Customer is billed for the calls rather than the call originators. Customers may use MY 800 Service only in Equal Access areas.

Rates:

MY 800 Service	
DAY RATE PERIOD	EVENING, NIGHT/WEEKEND & HOLIDAY RATE PERIOD
Per Minute	Per Minute
\$0.1900	\$0.1900

Billing Increments:

Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Service Hours:

DAY	EVENING NIGHT/WEEKEND & HOLIDAYS
Monday - Friday 7:00 a.m. to 5:59 p.m.	Monday - Friday 6:00 p.m. to 6:59 a.m. Friday 6:00 p.m to Monday 6:59 a.m.

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9. Excel Premier 800 Service

Excel Premier 800 Service is a one way, dial in service allowing the Customer to receive calls via local exchange carrier access facilities. Excel Premier 800 Service permits calls to a Customer's call station in one location from stations in diverse geographical areas, and in which the Excel Premier 800 Service Customer is billed for the calls rather than the call originators. Customers may subscribe to this service in Equal Access areas only.

Rates:

Premier 800 Service	
PEAK	OFF-PEAK
Per Minute	Per Minute
\$0.2400	\$0.2400

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9. Excel Premier 800 Service- (Continued)

Billing Increments:

Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Volume Discounts:

VOLUME AMOUNT	% DISCOUNT
\$0-\$99.99	---
\$100.00-\$499.99	23 %
\$500.00-\$1,999.99	23 %
Over \$2,000.00	23 %

Service Hours:

TIME PERIODS	
PEAK	OFF-PEAK
Monday - Friday 8:00 a.m. to 4:59 p.m.	Monday - Friday 5:00 p.m. 7:59 a.m. Saturday, Sunday & Holidays All Day

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10. Excel Operator Services

The Company's Operator Services is available throughout the State of Arizona. Callers access the Company's Operator Services by dialing 0+ a 10 digit telephone number, 00 or a Company-provided access code or other Company-authorized access method plus the telephone number of the called station. Upon receipt of the call, the Company may verify the credit-worthiness of the designated billed party. When a payment method cannot be validated, or is unacceptable, callers may be required to select an alternative and acceptable means of payment. Total charges for use of this service include usage charges and an Operator Assistance Service Charge, as set forth below. An Operator Dialed Service Charge also applies to calls in which the caller has the capacity to dial the number, but has the operator dial instead. Usage charges are based upon the duration of a call, and are flat per minute based, 24 hours per day, 7 days per week, during all Time-of-Day Rate Periods. The Time-of-Day Rate Periods are defined as follows:

- Day Rates are applicable to calls placed Monday through Friday from 8:00 AM to, but not including, 5:00 PM.
- Evening Rates are applicable to calls placed Sunday through Friday from 5:00 PM to, but not including, 11:00 PM; and on Carrier Recognized Holidays, unless a lower rate would normally apply.
- Night/Weekend Rates are applicable to calls placed Sunday through Friday from 11:00 PM to, but not including, 8:00 AM the following day, and all day Saturday.

Chargeable time begins when the Company receives signaling to detect that the network connection between the calling station and the called station has been established. Chargeable time ends when either party "hangs up" thereby releasing the network connection. For collect calls, chargeable time begins when the called station accepts responsibility for payment of the charges associated with the call. All calls are measured and billed in one minute increments; fractional minutes of use are rounded up to the next full minute.

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CURRENT PRICE LIST

10. Excel Operator Services - (Continued)

Operator Assistance Service Charges and Surcharge Descriptions:

A Service Charge is applicable to Customer Dialed (Automated) Calling Card Station, Operator Assisted Calling Card Station, Operator Station-to-Station (including Sent Paid, Sent Collect, Third Number Billed or Calling Card), Person-to-Person (including Sent Paid, Sent Collect, Third Number Billed or Calling Card) and for Busy Line Verifications and Busy Line Interruptions. These charge(s) are in addition to the initial period and additional period per minute usage charges applicable to each call. When a call is subject to more than one Service Charge, only the highest Service Charge applies, unless indicated otherwise herein. Operator Assistance Service Charges vary depending upon the billing option selected by the caller. The following call placement options are available:

- a. **Operator Station-to-Station** - refers to when an end user requests operator assistance in reaching a telephone number and is willing to talk to anyone who answers. The call may be billed as Sent Paid (calling party pays for the call), Sent Collect (called party pays for the call), or may be billed to a Third Party Number or Calling Card. Sent Collect and Third Number Billed calls may not be allowed in locations where the Company does not have billing arrangement availability. To activate Station-to-Station Operator Services, the caller's dialing sequence could be: 0+ a 10 digit telephone number, or 00 (only), or any other Company-provided access method, to get an operator directly to request that a Station-to-Station call be placed.

- b. **Person-to-Person** - refers to when an end user requests operator assistance in reaching a specific person, department, extension, office, etc. The operator dials the number and stays on the line until the requested party is reached and conversation begins. The call may be billed as Sent Paid (calling party pays for the call), Sent Collect (called party pays for the call), or may be billed to a Third Number or Calling Card. Sent Collect and Third Number Billed calls may not be allowed in locations where the Company does not have billing arrangement availability. To activate Person-to-Person Operator Services, the caller's dialing sequence could be: 0+ a 10 digit telephone number, or 00 (only), or any other Company-provided access method, to get an operator directly to request that a Person-to-Person call be placed.

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CURRENT PRICE LIST**10. Excel Operator Services - (Continued)****Operator Assistance Service Charges and Surcharge Descriptions: (Continued)**

- c. **Busy Line Verification** - refers to those instances where the Company will provide operator assistance to determine if there is conversation ongoing on a called station. A Service Charge is applied to all attempts to verify the condition of a customer line, busy talking, busy not talking (e.g., off hook), except attempts which are unsuccessful due to network equipment failure.
- d. **Busy Line Interruption** - refers to those instances where the Company operator will interrupt an ongoing conversation on a called station. A charge will apply each time the Company operator attempts the emergency interruption whether or not the interruption is successful. A Busy Line Verification must be made and its service charge applied before an Emergency Interruption can be attempted. Once an operator has verified the line, and the called party has agreed to accept the interruption, the Customer is provided the option of completing an operator assisted call to the called station without hanging up or originating a separate call. Customers may accept or refuse the operator's offer to complete the call. Calls completed with the operator's assistance will be charged an additional Service Charge under Station-to-Station or Person-to-Person, as applicable. If the operator dials or completes the call to the verified telephone number for the Customer, the Operator Dialed Surcharge will also apply.
- e. **Operator Dialed Surcharge** - will apply to Station-to-Station and Person-to-Person calls when the Customer has the ability to dial all the digits necessary for call completion but dials instead "0", "00" or another Company-provided access code or other Company-authorized access method to reach a Company operator to have the operator place the call. This surcharge will be incurred by the Customer in addition to the applicable Service Charge. However, the surcharge will not apply to: (1) calls which cannot be completed by the Customer due to equipment failure or trouble on the Company's network; (2) calls placed by parties identified as handicapped and who cannot complete the calls due to the handicap; and (3) calls made on a 0- basis in which a company operator places a call for a calling party after a Busy Line Verification and Busy Line Interruption process has been successfully completed.

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10. Excel Operator Services - (Continued)

Operator Assistance Service Usage Rates and Charges:

The flat per minute rates listed below apply 24 hours a day, 7 days per week, for Operator-Assisted Station-to-Station and Person-to-Person call types. All calls are measured and billed in one minute increments; fractional minutes of use are rounded up to the next full minute.

a. Per Minute Usage Rates:

MILEAGE	DAY RATE PERIOD		EVENING RATE PERIOD		NIGHT/WEEKEND RATE PERIOD	
	<i>1st Minute</i>	<i>Each Add'l</i>	<i>1st Minute</i>	<i>Each Add'l</i>	<i>1st Minute</i>	<i>Each Add'l</i>
All	\$0.5500	\$0.5500	\$0.5500	\$0.5500	\$0.5500	\$0.5500

b. Operator Assistance Service Charges and Surcharges:

The following Operator Assistance Service Charges and Surcharges are applicable to the specified operator assisted calls and are in addition to the per minute usage charges set forth above.

Call Placement Type:	Per Call Service Charge:
Operator Station-to-Station Sent Paid	\$3.45
Operator Station-to-Station Sent Collect	\$3.45
Operator Station-to-Station Third Number Billed	\$3.45
Operator Station-to-Station Calling Card	\$3.45
Person-to-Person Sent Paid	\$9.95
Person-to-Person Sent Collect	\$9.95
Person-to-Person Third Number Billed	\$9.95
Person-to-Person Calling Card	\$9.95
Busy Line Verification	\$6.50
Busy Line Interruption	\$6.50
Operator Dialed Surcharge	\$1.50

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11. Excel Calling Card Service

Excel's Calling Card Service provides for an arrangement to complete toll calls between two points when the Customer is away from his or her home or place of business. The Customer will be assigned a unique travel authorization code(s) that authorizes the use of the Excel Calling Card Service by that Customer. Customers will receive a calling card for use in making telephone calls. The appropriate designated access number sequence specified on the Customer's Excel Calling Card must be dialed.

Rates:

Excel Calling Card Service	
Initial Minute	Each Additional Minute
\$0.8900	\$0.3100

Excel Calling Card Service - (Continued)

Billing Increments:

Initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Discounts:

Customers subscribing to Excel PLUS, Excel PLUS II, Premier PLUS II, Excel Simply One, and Excel Dime Deal (OPTION A) will receive a 50% discount on charges incurred for all direct dialed calling card calls (after the first minute) terminated at ExcelPLUS, ExcelPLUS II, Simply One, Excel Dime Deal and Premier PLUS II numbers (participating Excel Customers). A discount does not apply to calling card calls terminated at all other numbers.

Service Hours:

Rates apply 24 hours a day, 7 days a week

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12. National Directory Assistance Service

National Directory Assistance Service, as offered by the Company, allows Customers to request information from Directory Assistance records. Directory Assistance charges apply to all requests. Customers are charged when they obtain the requested information or when the information is unlisted, non-published, or no record can be found. In addition to the Directory Assistance charge, Customers may be charged an appropriate Operator Service Charges and Surcharges as specified elsewhere in this tariff. Charges for Directory Assistance may be billed as Sent Paid, Third Number Billed or billed to a Calling Card. Person-to-Person or Collect Calls for Directory Assistance are not permitted. A separate Operator Assistance Service Charge applies as set forth elsewhere in this tariff to Directory Assistance calls when these calls are made with the assistance of a Company operator or billed to a Calling Card.

Operator Assisted/Directory Assistance Call Completion refers to National Directory Assistance calls wherein the Company operator completes the call to the caller's final desired destination number.

Customers may access this service by dialing the area code (NPA) for the telephone number desired plus 555-1212, or by using a Company-provided access code, or other Company-authorized access method. Up to two requests for listings within the area code dialed may be made on each call to Directory Assistance.

Directory Assistance calls will not be included in the calculation of usage discounts. A credit allowance for Directory Assistance will be provided if subscriber: experiences poor transmission quality; is cut off; receives an incorrect telephone number; or misdials the intended Directory Assistance number.

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CURRENT PRICE LIST

12. National Directory Assistance Service - (Continued)

The following charges apply to the Company's National Directory Assistance Service:

- a. For Customers who access the Company's National Directory Assistance Service by dialing Area Code (NPA) + 555-1212, or by using an alternative Company-provided access code, or other Company-authorized access method, an undiscountable charge of \$1.35 per call will be applied to each call requesting Directory Assistance. Automated Call Completion from Directory Assistance is available at no additional charge. If calls are completed on behalf of the Customer, a per minute for originating direct dial usage for the Company service for which they are presubscribed or non-presubscribed will be charged.

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13. Prepaid Calling Card Service

The Prepaid Calling Card Service enables callers to place calls using Excel's service on a prepaid basis. Customers subscribe to the service by purchasing a prepaid card from an authorized Excel representative. Access to the service is available seven (7) days per week, twenty four (24) hours per day. Charges for telephone calls will be deducted from the Customer's prepaid account balance. Prepaid calling cards will be valid until the Customer's prepaid balance is depleted. Customers access the Company's service using a 1-800 access code arrangement. A voice prompt will instruct the caller to dial the called telephone number and authorization code displayed on the card.

Prepaid Calling Card Service is provided to the holder of the card and is available in all locations throughout the State, subject to technical limitations. Customers must maintain a sufficient balance to cover the cost of the call in process. Failure of the card holder to maintain a positive balance may result in the disconnection of a call in process; an announcement will advise the caller one minute prior to the disconnection of the call. Under some arrangements, callers may utilize a commercial credit card to increase a prepaid balance or renew the prepaid card.

Rates and charges vary depending upon the arrangement selected by the Customer. Call duration will be measured in whole minute increments, unless otherwise specified. Credit for interruptions are limited to one minute; no other refunds, credit, or other remittances shall be permitted. All applicable state and federal taxes and fees, including, but not limited to, sales tax, gross receipts tax, municipal tax, and other similar assessments are the responsibility of the card holder. Such charges may be deducted from the Customer's prepaid calling card balance. Prepaid calling cards are provided at the unit prices and fees set forth herein. Under some arrangements, a separate fee or unit value may also be imposed by the distributor of the card.

Rates:

Per Minute
\$0.2900

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13. Prepaid Calling Card Service - (Continued)

Billing Increments:

Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Service Hours:

Rates apply 24 hours a day, 7 days a week

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14. Excel Simply 7 Service

Excel Simply 7 Service is a one way, dial-out multi point service designated for residential and small business customers and is limited to three (3) telephone numbers per customer account. The service has a flat rate per minute structure for all time-of-day rate periods. Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute.

Rates

Per Minute
\$0.1000

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15. 1-800 PHONEME Service

1-800 PHONEME Service refers to collect call completion with the assistance of an operator after the caller places a call by dialing an access number provided by the Company. Calls will be billed on a flat per minute basis with calls rated according to the time-of-day calling period of the individual placing the call. Additionally, an applicable per call service charge will apply as set forth below. This service allows the customer to originate calls from any point served by the Company.

Rates:

PER MINUTE RATES		
PEAK	OFF PEAK	WEEKEND
\$0.2200	\$0.0900	\$0.1700

Service Charges:

Per Call Charge

Station-to-Station	\$1.30
Person-to-Person	\$2.30

Service Hours:

Peak:	7:00am to 6:59pm, Monday through Friday
OffPeak:	7:00pm to 6:59am, Monday through Sunday
Weekend:	7:00am to 6:59pm, Saturday and Sunday

Billing Increments:

Each call completed will have an initial minimum of one minute increment and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

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16. Excel Prepaid Calling Card Service Offering II

The Excel Prepaid Calling Card Service Offering II will allow a customer to pay a fixed dollar amount in advance for long distance calling. The customer will use the toll free number on the card for access from touch-tone telephones within the United States. For call completion, the customer will follow recorded prompts.

A flat per minute rate will be charged; there are no off-peak rates. The per-minute cost of a call will be deducted on a real-time basis as the card is used until the full amount of the card is exhausted. The customer will be notified in advance of the exhaustion of the card. The rates for this Excel Prepaid Calling Card Service are set forth below. The rates paid by the customer will be those rates indicated on the packaging at the time of purchase of the card. An expiration date will be printed on the card. The following types of calls may not be completed with the Excel Prepaid Calling Card Service:

Calls to 500, 700, 900 and toll free numbers;
Calls to Directory Assistance;
Operator assistance calls; and
Calls requiring time and/or charges.

A Customer's call will be interrupted with an announcement when the balance is about to be depleted. Such announcement will occur one minute before the balance will be depleted, based on the terminating location of the call. Calls in progress will be terminated by the Company if the balance on the Excel Prepaid Calling Card is insufficient to continue the call.

This Excel Prepaid Calling Card Service offering will be available in various denominations of units, minutes or dollars; sales or excise taxes are due at the point of purchase. Rates apply twenty-four hours per day, seven days per week. Cards are not rechargeable. The following Per Minute Rate applies for calls placed from locations between and among domestic points within the United States. All calls are rounded to the next higher full minute.

The per minute usage rate for this prepaid card is: \$.2500 per minute.

An additional charge for calls placed from pay phones may also apply. The charge is \$.2500 and applies on a per call basis.

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17. **Employee Long Distance Service Program**

Employee Long Distance Service Program is a one-way dial-out multi point residential presubscribed service designated for employees of Excel Telecommunications, Inc., its parent company, affiliates and subsidiaries. This service has a flat per minute rate structure for all time-of-day rate periods. Each call completed will be billed in initial and additional increments of one minute, rounded up to the next whole minute.

Rates:

Per Minute
\$0.1300

Calling Card Per Minute Rates:

Employees subscribing to this service will be provided with a calling card that allows them to make long distance calls while away from home. The following per minute rates apply for all calling card calls placed within the State:

Initial Minute	Each Additional Minute
\$0.25	\$0.25

Calling Card Billing Increments:

Calls will be billed at an initial minimum of six (6) seconds, and anytime beyond that minimum will be billed in addition using six (6) minute increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

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18. EXCEL M-PLANS

EXCEL M-PLANS are one-way, dial-out multi point services designated for presubscribed Customers that are to be migrated from Telco Holdings, Inc. d/b/a Dial & Save and Long Distance Wholesale Club to the network of Excel Telecommunications, Inc. These services are grand fathered and will not be available to new customers.

The Excel M-Plan services have a flat per minute rate structure for all time-of-day rate periods. In addition, some of the plans have a monthly recurring charge. Although some of the intrastate Excel M-Plans set forth below are the same for intrastate calls, the corresponding interstate Excel M-Plan(s) rates vary. All examples of applicable intrastate Excel M-Plans are shown so that a cross-reference can easily be made when referring to Excel's F.C.C. Tariff No. 5.

Each call completed pursuant to these plans will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. Calling Card Service is also available to Customers presubscribed to these plans as set forth below.

Excel M-Plan Rates:

PLAN NAME	PER MINUTE RATE	MONTHLY RECURRING SERVICE CHARGE
M1	\$0.1500	\$1.00
M2	\$0.1000	\$4.95
M3	\$0.0900	\$4.95
M4	\$0.0900	\$3.00
M5	\$0.1500	None
M6	\$0.0900	None
M7	\$0.0900	None
M8	\$0.0900	None
M9	\$0.0700	None

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18 EXCEL M-PLANS - (Continued)

Excel M-Plan Calling Card Service provides for an arrangement to complete toll calls between two points when the Customer is away from his or her home or place of business. The Customer will be assigned a unique travel authorization code(s) that authorizes the use of the Excel M-Plan Calling Card Service by that Customer.

Excel M-Plan Calling Card Rates:

Initial Minute	Each Additional Minute
\$0.8900	\$0.3100

Excel M-Plan Calling Card Billing Increments: Initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Excel M-Plan Service Hours:

Rates apply 24 hours a day, 7 days a week

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19. Excel Prime Business Select 3 Service

Excel Prime Business Select 3 Service is a combined inbound, outbound and calling card service offered to business Customers. Customers are billed at per minute rates based on Combined Monthly Usage volumes, and discounted rates are applied based upon the Customer's billed monthly usage. Combined Monthly Usage is defined as the Customer's billed usage for a monthly billing period for the combined total of interstate, intrastate, international and service calling card usage for a month's billing period. Directory Assistance charges, monthly recurring charges, service fees, surcharges and taxes are not included in the determination of the Customer's Combined Monthly Usage.

Customers to this service offering commit to Combined Monthly Usage of \$100.00, hereinafter referred to as the \$100.00 Monthly Minimum Commitment. In the event Customer does not meet the \$100.00 Monthly Minimum Commitment during any monthly invoice period, the Customer will be responsible for paying a deficiency charge for that invoice period. The Customer's deficiency charge will be the difference between the Customer's \$100.00 Monthly Minimum Commitment and the Customer's actual Combined Monthly Usage.

This service is offered on a month-to-month basis.

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CURRENT PRICE LIST

19. Excel Prime Business Select 3 Service - (Continued)

Usage Rates:

COMBINED MONTHLY USAGE COMMITMENT	PER MINUTE RATES
\$0 - \$99.99	\$0.1400
\$100 - \$199.99	\$0.1400
\$200 - \$499.99	\$0.1400
\$500 - \$999.99	\$0.1400
Over \$1000	\$0.1400

Excel Prime Business Select 3 Calling Card Usage Rates:

Per call surcharge: \$0.2500
Per minute rates: \$0.2500

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CURRENT PRICE LIST

19. Excel Prime Business Select 3 Service - (Continued)

Usage Rates: (Continued)

Monthly Recurring Service Charges and Fees:

Inbound Service Charge	\$3.00 per 800/888#, per month
Directory Assistance Service:	\$0.7500 per call
Optional Management Invoice Reports	\$2.00 per report, per month
Accounting Codes (Non-Verified Package)	\$5.00 per package, per month
Accounting Codes (Verified Package)	\$10.00 per package, per month

Billing Increments:

Excel Prime Business Select Service 3:

Each call completed will have an initial minimum of eighteen (18) seconds and any time beyond that minimum will be billed in addition using six (6) second increments, rounded up to the next whole six second (1/10 of one minute) increment. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Excel Prime Business Select 3 Calling Card:

Each calling card call completed will have an initial minimum of thirty (30) seconds and any time beyond that minimum will be billed in addition using six (6) second increments, rounded up to the next whole six second (1/10 of one minute) increment. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Service Hours:

Rates apply 24 hours a day, 7 days a week

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CURRENT PRICE LIST

20 Excel Prime Business Select 4 Service

Excel Prime Business Select 4 Service is a combined inbound, outbound and calling card service offered to business Customers. Customers are billed at per minute rates based on Combined Monthly Usage volumes, and discounted rates are applied based upon the Customer's billed monthly usage. Combined Monthly Usage is defined as the Customer's billed usage for a monthly billing period for the combined total of interstate, intrastate, international and service calling card usage for a month billing period. Directory Assistance charges, monthly recurring charges, service fees, surcharges and taxes are not included in the determination of the Customer's Combined Monthly Usage.

Customers to this service offering commit to Combined Monthly Usage of \$100.00, hereinafter referred to as the \$100.00 Monthly Minimum Commitment. In the event Customer does not meet the \$100.00 Monthly Minimum Commitment during any monthly invoice period, the Customer will be responsible for paying a deficiency charge for that invoice period. The Customer's deficiency charge will be the difference between the Customer's \$100.00 Monthly Minimum Commitment and the Customer's actual Combined Monthly Usage.

Customers subscribing to this service must commit to a term of 12 months. A service term begins on the first day of the month following service enrollment. When the Customer's 12-month service term expires, the Customer's service will automatically renew for another 12-month period, unless the Company receives in writing a notice of non-renewal during the period between 60 and 30 days prior to the end of the Customer's 12-month term period.

In the event a Customer terminates service with the Company prior to the end of the 12-month Term Commitment Period, or in the event that the Company terminates service based on the Customer's default, the Customer will be responsible for paying a Termination Charge equal to the Customer's \$100.00 Monthly Minimum Commitment, multiplied by the number of months remaining in the Customer's agreed 12-month Term Commitment period.

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CURRENT RATES

20. Excel Prime Business Select 4 Service - (Continued)

Usage Rates:

COMBINED MONTHLY USAGE	PER MINUTE RATES
\$0 - \$99.99	\$0.1350
\$100 - \$199.99	\$0.1350
\$200 - \$499.99	\$0.1350
\$500 - \$999.99	\$0.1350
Over \$1000	\$0.1350

Excel Prime Business Select 4 Calling Card Usage Rates:

Per call surcharge: \$0.2500
Per minute rates: \$0.2000

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CURRENT PRICE LIST**20. Excel Prime Business Select 4 Service - (Continued)****Usage Rates: (Continued)****Monthly Recurring Service Charges and Fees:**

Inbound Service Charge	\$3.00 per 800/888#, per month
Directory Assistance Service:	\$0.7000 per call
Optional Management Invoice Reports	\$2.00 per report, per month
Accounting Codes (Non-Verified Package)	\$5.00 per package, per month
Accounting Codes (Verified Package)	\$10.00 per package, per month

Billing Increments:**Excel Prime Business Select Service 4:**

Each call completed will have an initial minimum of eighteen (18) seconds and any time beyond that minimum will be billed in addition using six (6) second increments, rounded up to the next whole six second (1/10 of one minute) increment. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Excel Prime Business Select 4 Calling Card:

Each calling card call completed will have an initial minimum of thirty (30) seconds and any time beyond that minimum will be billed in addition using six (6) second increments, rounded up to the next whole six second (1/10 of one minute) increment. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Service Hours:

Rates apply 24 hours a day, 7 days a week

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CURRENT PRICE LIST

21. Non-Recurring and Other Charges

Returned Check Charge	\$15.00 or 5%, whichever is greater, per incident.
Reconnection Charge	\$25.00
Late Payment Charge	1.5% per month, unless a lower rate is prescribed by law.
Accounting Code Charge	\$10.00

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CURRENT PRICE LIST

22. Excel Prime Business Flat Rate Service

Excel Prime Business Flat Rate Service is a dial-in, dial-out and calling card switched multi-point service designated for business customers. This service has a flat per minute rate structure for all time-of-day rate periods and allows the Customer to originate and terminate calls via local exchange carrier access facilities. There is no Monthly Usage Commitment Level required; however, in the event a Customer's monthly usage exceeds \$100.00 in any given 30-day invoice period, the monthly recurring account charge of \$15.00 will be waived for that given invoice period.

Rates (Inbound and Outbound):

Excel Prime Business Flat Rate Service
\$0.1000 Per Minute

Monthly Recurring Account Charge: \$15.00

Monthly Recurring Service Charge: \$3.00/per 800/8XX number

Billing Increments:

Each Inbound and outbound call completed will have an initial minimum of eighteen (18) seconds and any time beyond that minimum will be billed in addition using six (6) second increments, rounded up to the next whole six second (1/10 on one minute increment) increment. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Service Hours:

Rates apply 24 hours a day, 7 days a week

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CURRENT PRICE LIST

22. Excel Prime Business Flat Rate Service - (Continued)

Excel Prime Business Flat Rate Calling Card Rates

Per Call Surcharge: \$0.2500

Per Minute Rate: \$0.2000

Billing Increments:

Each calling card call completed will have an initial minimum of thirty (30) seconds and any time beyond that minimum will be billed in addition using six (6) second increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Directory Assistance Per Call Charge: \$1.00

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CURRENT PRICE LIST

23 OPTION B SERVICE

- 23.1** **OPTION B SERVICE:** is a one-way, dial-out multi point service designated for residential and small business customers. The service has a flat rate per minute structure for all time-of-day rate periods. Customers may subscribe to this service in Equal Access areas only.

Rate

OPTION B SERVICE
\$0.1500 Per Minute

Monthly Recurring Charge:

Customers will pay a monthly recurring charge as described in Excel's F.C.C. Tariff No. 5. The monthly recurring charge applies whether or not the Customer makes any calls.

Billing Increments:

Each call completed will have an initial minimum of one minute and any time beyond that minimum will be billed in addition using one minute increments, rounded up to the next whole minute. If the computed charge includes a fraction of a cent, the fraction is rounded up to the next whole cent.

Service Hours:

Rates apply 24 hours a day, 7 days a week.

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ARIZONA CORPORATION COMMISSION

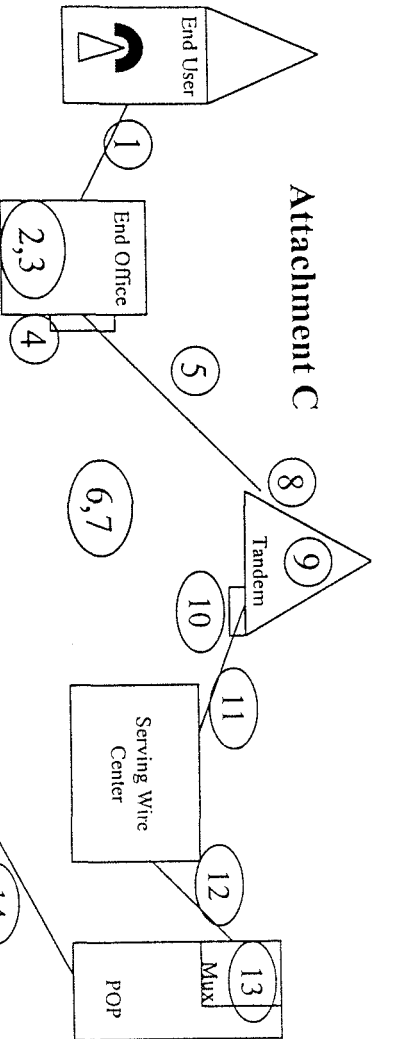
DOCKET NUMBER U-2584-91-016

ATTACHMENT C

EXCEL TELECOMMUNICATIONS, INC.

TECHNICAL INFORMATION

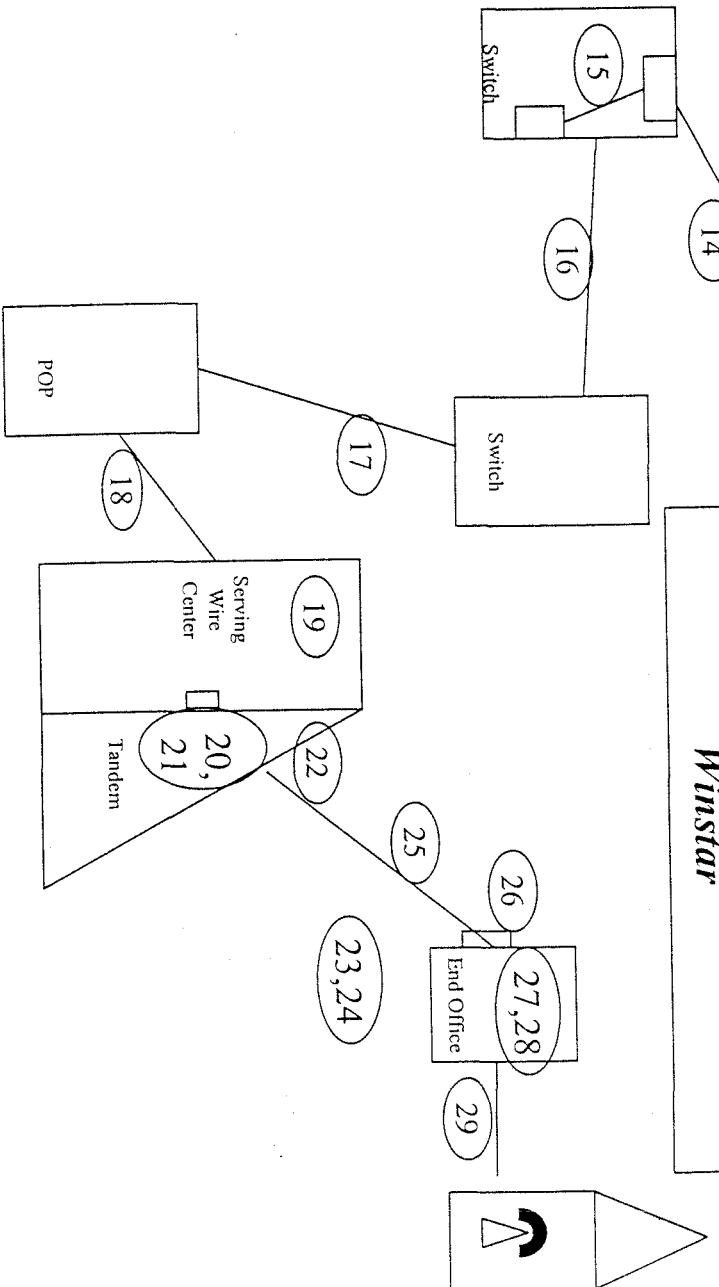
Attachment C



The following LEC carriers are used for steps 1-13 and 18-29 in AZ:

US West, Citizens, Cox, Electric Lightwave, Midvale, Nextlink, Southwestern Tel, Valley, Winstar

	Name of Charge
1	Originating Intraslate Carrier Common Line
2	Originating Intraslate Local Switching
3	Originating Intraslate Information Surcharge
4	Originating Intraslate Shared Trunk Port
5	Originating Intraslate Local Transport Facility
6	Originating Intraslate Local Transport Termination
7	Originating Intraslate Interconnection
8	Originating Intraslate Common Mux
9	Originating Intraslate Tandem Switching
10	Tandem Trunk Port
11	DTAT
12	DS1 Entrance Facility
13	Multiplexing
14	DS3 Backhaul
15	DS3 Cross-Connect
16	DS3 MT
17	DS1 Backhaul
18	DS1 Entrance Facility
19	DTAT
20	Tandem Trunk Port
21	Terminating Intraslate Tandem Switching
22	Terminating Intraslate Common Mux
23	Terminating Intraslate Interconnection
24	Terminating Intraslate Local Transport Termination
25	Terminating Intraslate Local Transport Facility
26	Terminating Intraslate Shared Trunk Port
27	Terminating Intraslate Information Surcharge
28	Terminating Intraslate Local Switching
29	Terminating Intraslate Carrier Common Line



The following carriers provide leased facilities in steps 14-17 in AZ: IXC, Worldcom/MFS



ARIZONA CORPORATION COMMISSION

DOCKET NUMBER U-2584-91-016

ATTACHMENT D

EXCEL TELECOMMUNICATIONS, INC.'S

FINANCIAL STATEMENTS

Excel Telecommunications, Inc.
Income Statement
For the Calendar Years 1997 and 1998

	1997	1998
Revenues		
Long Distance Revenue	1,193,974,482	1,217,952,703
Paging Revenue	24,875,428	28,383,679
Revenue Adjustments	(30,146,439)	(26,505,452)
Interest and Other Income	19,515,639	30,954,755
Total Revenue	<u>1,208,219,110</u>	<u>1,250,785,685</u>
Expenses		
Line Charges	619,596,494	636,817,075
Paging Cost of Sales	6,195,287	7,805,196
Billing Fees	58,446,035	53,231,400
Bad Debt Expense	33,759,658	31,624,913
Other Direct Operating Expenses	27,863,574	4,601,344
Salary Expense	3,299,654	4,128,775
Contract Labor	850,849	476,823
Rent Expense	636,490	657,374
Depreciation	236,410	295,735
Support and Management Costs	301,402,050	260,226,447
Other Taxes	278,779	1,811,262
Miscellaneous Expenses	81,670,839	1,960,787
Federal Income Tax	33,432,718	15,399,063
Total Expenses	<u>1,167,668,837</u>	<u>1,019,036,194</u>
Net Income	<u>40,550,273</u>	<u>231,749,491</u>

Excel Telecommunications, Inc.
Balance Sheet
As of December 31, 1997 and 1998

	12/31/97	12/31/98
Accounts Receivables, Net	179,904,990	178,383,937
Other Current Assets	16,311,576	10,050,885
Depreciable Assets, Net	964,416	2,006,622
Other Assets	(4,202,300)	(4,201,296)
Total Assets	192,978,682	186,240,148
Accounts Payable	1,375,691	(116)
Accrued Line Charge Expenses	101,931,748	19,314,310
Accrued Billing Fees	6,670,884	14,022,348
Other Current Liabilities	11,947,995	13,638,184
Intercompany Payable	(24,799,740)	12,327,702
Other Liabilities	740,300	76,425
Total Liabilities	97,866,878	59,378,853
Common Stock	0	0
Paid In Capital	(9,280,003)	(9,280,003)
Retained Earnings	104,391,807	136,141,298
Total Stockholders Equity	95,111,804	126,861,295
Total Liabilities and Stockholders Equity	192,978,682	186,240,148